DOCUMENT RESUME

ED 229 956 EC 151 965

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TITLE A Reference Guide for Secondary Career and Vocational Programming for Handicapped Students.
INSTITUTION Iowa State Dept. of Public Instruction, Des Moines. Div. of Special Education.
PUB DATE Sep 82
NOTE 144p.
PUB TYPE Guides - Non-Classroom Use (055)

EDRS PRICE MF01/PC06 Plus Postage.
DESCRIPTORS *Career Exploration; Community Resources; Cooperative Education; *Disabilities; Employer Employee Relationship; Financial Policy; Job Training; Program Development; Secondary Education; Sheltered Workshops; *Vocational Education; Work Experience Programs; Work Study Programs
IDENTIFIERS Iowa

ABSTRACT

The reference guide presents information on placing special education students in the community for "specially designed" career exploration or "specially designed" vocational training in Iowa. Much of the information is in question and answer format. An introductory section provides background on the employee-employer relationship, Workman's Compensation and Unemployment Insurance, and federal wage and hour regulations. A section on career exploration activities briefly describes their basic purpose, discusses the need for orientation, and provides an example of a recording form. A section on vocational training defines such related terms as student trainee, handicapped worker, training plan, and cooperative education. Components of a training agreement (a management tool to set the stage for training) and a training plan (a listing of student goals and objectives) are described. Examples of agreements and plans are included along with information on financial aspects. Vocational cooperative education (in which students receive instruction through a joint school-employer venture) is considered in terms of a program model. Provisions made for a lower minimum wage for handicapped workers are addressed, and sample applications and certificates included. A section on full-time students in work release or work study is followed by information on sheltered workshops and work activity centers. A final section presents age specific information regarding state laws and regulations on such topics as apprenticeships, hazardous occupations, and hour regulations. (CL)

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A REFERENCE GUIDE FOR SECONDARY CAREER AND VOCATIONAL PROGRAMMING FOR HANDICAPPED STUDENTS

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September, 1982

EC 151965

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INTRODUCTION

This reference guide was developed in response to the many questions that have been generated regarding the placement of special education students in the community for "specially designed" career exploration or "specially designed" vocational training.

On behalf of the Special Education Division, I would like to thank the following persons for their assistance in the development of this document:

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Brad Riley, Green Valley AEA 14
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Linda Lewis, Area Education Agency 6
Myra DeRae Lukehart, Council Bluffs School District
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Kathy Mason, Urbandale Community School District
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Kim Nelson, Cherokee Community School District
Yolanda McClanahan, Pleasant Hill Development Center
Betty Williams, Green Valley AEA 14
Amanda Richards, Southern Prairie AEA 15
Rex Shahriari, Central College
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Cindy Weingart, West Des Moines Public School District
Cindy Siepman, West Des Moines Public School District
Kathy Pitzen, Johnston High School
Alvin Hella, Keystone AEA 1
Cheryl Ann Shroyer, Des Moines Public Schools
Carrie Siegmund, North Scott Community School District
Dr. Charles Greenwood, Drake University

A special thanks to Division secretaries; Nola Hewus for typing the rough draft, and Jeri Burdick for setting up and typing the final draft.

Merry Maitre, Consultant
Career/Vocational Education for
the Handicapped Student

RESOURCE AGENCIES

LEGAL CONSIDERATION	CONTACT PERSONNEL		PUBLICATIONS & DOCUMENTS
	STATE	FEDERAL	
Iowa Child Labor Laws	Olga Duran, Director Labor Bureau 307 E. 7th & Court Des Moines, Iowa 50319 Phone: 515/281-3606		Section 92 - Iowa Code-Labor Laws of Iowa .Child Labor Requirements in Nonagricultural Occupations WH Publication 1330 .Child Labor Requirements in Agriculture Builetin No. 102
Federal Wage-Hour Laws	None (Iowa has no wage-hour law--compliance is with federal laws)	David Birchem Wage and Hour Division 638 Federal Building 210 Walnut Des Moines, Iowa 50309 Phone: 515/284-4625 or Vacant, Wage & Hour Specialist U.S. Department of Labor Federal Wage & Hour Office 911 Walnut-Room 2000 Kansas City, Missouri 64106 Phone: 816/374-5382	.The Fair Labor Standards Act WH Publication 1318 .Handy Reference Guide to the Fair Labor Standards Act WH Publication 1282 .Regulations, Part 519: Employment of Full-time students at Subminimum Wage WH Pub. 1223 .Regulations, Part 520: Employment Student Learners WH Publication 1343
Unemployment Compensation (Co-op students exempt)	Pat Scott or Wayne Cromer Employer Liability & Field Audit 1000 E. Grand Des Moines, Iowa 50319 Phone: 515/281-8219 or 281-8216	Federal Unemployment Insurance Internal Revenue Service Center 2306 East Bannister Road Kansas City, Missouri 64170 Phone: 816/474-0350	.Special Minimum Wage for Handicapped Workers WH Pub. 1316 .Special Minimum Wages for Handicapped in Sheltered Workshops WH Publication 1249
Sheltered Workshop and Work Activity Centers	Bob Schoene Program Manager Dept. of Social Services Hoover Building Des Moines, Iowa 50319 Phone: 515/281-6071		.Accreditation of Rehabilitation Facilities

LEGAL CONSIDERATION	CONTACT PERSONNEL		PUBLICATIONS & DOCUMENTS
	STATE	FEDERAL	
Worker's Compensation	Robert Landess Industrial Commissioner 507 - 10th Street Des Moines, Iowa 50319 Phone: 515/281-5934	Not Applicable	Iowa Labor Laws Section 96.19-9-g-(6)
Income Tax Filing & Withholding	Jerry Frantz Hoover Building 4th Floor Capitol Complex Des Moines, Iowa 50319 Phone: 515/281-3114	Taxpayer Service Internal Revenue Service Federal Building 210 Walnut Des Moines, Iowa 50309 Phone: 515/284-4850	Iowa - W4E Form Iowa W-4 - Employee's Withholding Allowance Certificate Circular E - Employers Tax Guide Publication 539-Withholding Taxes and Reporting Requirements
Social Security Deductions & IPERS (Co-op students exempt)	Rosa Ervin, Supervisor IPERS-FOAB Returns Iowa Public Employees Retirement System 1000 East Grand Ave. Des Moines, Iowa 50319 Phone: 515/281-3435	Not Applicable	Handbook for Public Employers
Supplemental Security Income	Not Applicable	Paul Schmidt Social Security Admin. 210 Walnut Des Moines, Iowa 50309 Phone: 515/284-4359	Supplemental Security Income: It can Help Mentally Retarded Citizens 1972 Amendments - SSI Child Benefits (A314-A322)
Employer Incentives	Merry Maitre, Consultant Career-Vocational Education for the Handicapped Department of Public Instruction Grimes State Office Bldg. Des Moines, Iowa 50319 Phone: 515/281-3176		Weighted Monies generated for Handicapped Students enrolled in Public Schools

LEGAL CONSIDERATION	CONTACT PERSONNEL		PUBLICATIONS & DOCUMENTS
	STATE	FEDERAL	
Employer Incentives (cont.)	Roger Foelske Career Education Div. Department of Public Instruction Grimes State Office Bldg. Des Moines, Iowa 50319 Phone: 515/281-4703		Career Education Inventory CISI System Aware
	Don Smith, Consultant Target Job Tax Credit Department of Public Instruction Career Education Division Grimes State Office Bldg. Des Moines, Iowa 50319 Phone: 515/281-4723	Fred Gaffney Targeted Job Tax Credit Internal Revenue Service Federal Building 210 Walnut Des Moines, Iowa 50319 Phone: 515/284-4850	Targeted Job Tax Credit Resource Manual for Cooperative Education Programs
	JoAnn Callison, Assistant State Youth Coordinator Office for Planning and Programming 523 E. 12th Des Moines, Iowa 50319 Phone: 515/281-3927		CETA Youth Program Funds
	Sharon Fischer Geers Program Coordinator Iowa Assn. Retarded Citizens 2430 East University Room 105 Des Moines, Iowa 50317 Phone: 515/263-1400	Paul Yochum, Field Coordinator National Association for Retarded Citizens 2700 Laura Lane Middleton, Wisconsin 53562 Phone: 608/831-1151	NARC-OJT Funds
	Raymond Morley, Consultant Special Needs Section Department of Public Inst. Grimes State Office Bldg. Des Moines, Iowa 50319 Phone: 515/281-3912		Community School Program Funds (CSP)

LEGAL CONSIDERATION	CONTACT PERSONNEL		PUBLICATIONS & DOCUMENTS
	STATE	FEDERAL	
Vocational Rehabilitation	Don Perkins, Resource Manager R.E.S.B 510 E. 12th Street Des Moines, Iowa 50319 Phone: 515/281-4312		Guidelines for Referring Special Education Students to Vocational Rehabilitation (RESB) for Service
Liability, School Insurance	Check with your school's legal counsel and the insurance company carrying liability insurance for your school. or Merry Maitre, Consultant Career-Vocational Education for the Handicapped Student Iowa Department of Public Instruction Grimes State Office Building Des Moines, Iowa 50319 Phone: 515/281-3176		
Unemployment Compensation Job Placement Assistance	Job Service of Iowa 1000 East Grand Avenue Des Moines, Iowa 50319 Phone: 515/281-5801		Job Placement and Assistance

SECTION I

GENERAL INFORMATION

WORK

Question: What is work?

Answer: The essential elements of work as defined by the Supreme Court are:

1. Physical or mental exertion (whether burdensome or not);
2. Controlled or required by the employer, and;
3. Pursued necessarily and primarily for the benefit of the employer and his/her business.

ESTABLISHING AN EMPLOYEE - EMPLOYER RELATIONSHIP

Question: What does it mean "to employ?"

Answer: The Fair Labor Standards Act, Section 3(g) describes employment "to suffer or permit to work."

Question: When does an employment relationship exist?

Answer: "Mere knowledge by an employer of work done for him/her by another is sufficient to create an employment relationship under the Act." (Wage and Hour Publication 1297)
The shift to an employment relationship may occur shortly after a placement of a student-trainee or it may occur later. As a general guide, Wage and Hour will consider a mentally retarded student-trainee an employee after three months unless the facts indicate that the training has not materially changed.

WORKMEN'S COMPENSATION AND UNEMPLOYMENT INSURANCE

Question: What is Unemployment Insurance?

Answer: It is designed to protect the employed worker who becomes unemployed because of lack of work and who is able, available

and willing to work. The main objective of this service is to provide income as a matter of right for a period long enough to tide most workers over spells of unemployment and to maintain some of their purchasing power.

The unemployment insurance program is financed through State and Federal tax on employers. No deductions are made from workers' paychecks for unemployment insurance. Employers are required to submit the names of employees and their wages earned for each quarter of the year they are employed. The employer then pays "wage credits" to cover possible claims filed by employees who are eligible for unemployment benefits.

Question: Under what situations are special education students not required to be covered under unemployment insurance?

Answer: a. Experiential Exploration (EBCE) (no pay).

b. Community Vocational Training (no pay).

c. Cooperative phase of their vocational training program (pay).

d. The student is under age twenty-two.

e. The student is enrolled full-time in an instructional program at a non-profit or public institution.

f. The student receives academic credit for the cooperative work experience.

g. The student receives related instruction to the cooperative work experience.

h. Cooperative work experience is required for course completion.

i. The employer (training sponsor) certifies that the student employed is enrolled in a cooperative training program.

State and Federal Child Labor Laws do not require an employer-trainer to pay "wage credits" on either a student-trainee or a

student-learner. However, the employer-trainer may elect to do so for the student-learner because the student-learner is in an employee-employer situation. The local school district should carry disability and liability insurance on students placed for occupational training or work experience. The local district superintendent or his/her designee should check the district's coverage to see if special education students are covered. If the district needs information regarding possible insurance vendors, they may call the Special Education Division Consultant for Career and Vocational Education, 515/281-3176.

The procedure for payment of student insurance coverage should be the same for special education students as it is for those students (special and regular) enrolled in general vocational co-op programs. However, if some students cannot pay the insurance premium, the local district should find other resources for paying the insurance cost.

Training agreements and plans shall be in place for all special education students placed in the community for "specially designed" vocational training or vocational co-op work experience. This is required whether the special education student is placed by a regular education vocational instructor or by a special education teacher-coordinator (LEA) or work experience instructor (AEA).

FEDERAL WAGE AND HOUR REGULATIONS

Question: What areas are regulated by the Federal Wage and Hour Division?

Answer: 1. Minimum Wage

2. Overtime Wage (after 40 hours)

3. Child Labor Laws

4. Record Keeping

Question: Are there things the Fair Labor Standards Act (FLSA) does not require?

Answer: 1. Vacation, holiday, severence, or sick pay.

2. Rest periods, holidays off, or vacations.

3. Premium pay for weekend or holiday work.

4. Pay raises or fringe benefits.

5. A discharge notice, reason for discharge, or immediate payment of final wages to terminate employees.

These are matters agreed to between employer, employees, and/or their authorized representatives.

Question: Who is covered by the Fair Labor Standards Act (FLSA)?

Answer: All employees of certain enterprises having workers engaged in interstate commerce, producing goods for interstate commerce, or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person.

Question: Are there any employers exempt from paying minimum wages?

Answer: Yes. The following are exempt from paying minimum wage:

1. State and local government, e.g., public schools, hospitals, fire prevention, police protection, sanitation, public

health, parks, and recreation. (National League of Cities, et al. vs. Usery.) There are other employers, such as small retail businesses, that are also exempt. If you do not know which ones, please call the Wage and Hour Division (p. 5) to find out.

2. In these situations, no Application for Less Than Minimum Wage needs to be filed for student-learners.

SECTION II

EXPERIENTIAL EXPLORATION
(NO PAY)

DEFINITIONS

Student. So that there will be no misunderstanding between school personnel, Iowa Bureau of Labor, and the Federal Wage and Hour Division, it is important to call all students enrolled in experiential exploration (EBCE) "students".

They should not be referred to as "student-trainees", "student-learners", or "work experience students" as these have different meanings for the Iowa Bureau of Labor and the Federal Wage and Hour Division.

Students enrolled in exploration activities must not become involved in an employee-employer relationship. There are six criteria that must be met before a student would not be considered an employee. These are identified in the following pages.

Activity Sheets. Facilitate the coordination of activities between the exploration site and the in-school activities. Since this is not vocational training or cooperative work experience, training agreements and plans cannot be required.

Community Resource Person. A business or industry person who provides a site for exploration, assists with suggestions for the activity sheets, and evaluates the students' performance during the time spent at the site.

EXPERIENTIAL EXPLORATION COMMUNITY BASED (EBCE)

PROGRAM MODEL	REQUIRED	RECOMMENDATIONS
.Student receives no wages .Student receives school credit for the experience .Provides opportunities for the disabled student to explore 4-6 sites in a school year for the purpose of identifying their: *career interests *likes and dislikes *awareness of a variety of occupations *potential *strengths and limitations .Provides instructional staff performance data which can be utilized for future exploration and occupational preparation .Focuses academic instruction towards work-related activities .Provides related instruction through the use of activity sheets	Individualized Education Program (IEP) Goals and Objectives Assessment and evaluation data to reflect the student's initial skill level and growth acquired as a result of this curriculum offering. The granting of credit is based on the student's successful completion of specified assignments that relate the community site experiences to the academic requirements of a given high school course. The assignments are identified and monitored through the use of activity sheets. Continued documentation of the special education student's occupational interests, aptitudes, and limitations that will need to be accommodated when the student is enrolled in occupational preparation during his/her later high school grades. The school district is responsible for insurance coverage for liability and accident. (For information please call 515/281-3940.) Federal and State Child Labor and Wage and Hour Regulations must be followed. Student cannot be at one site more than 12 weeks (Federal Wage and Hour).	Related instruction via the use of activity sheets. Utilized prior to vocational training approximately grades 9, 10, or 11. Student is generally at least 16 years old. Student gets him/herself to the exploration site whenever possible as this approximates what she/he will have to do when adults. Resources Weighted monies can be used to pay the community resource person for providing exploration activities. It is not recommended, however, since training is not involved.

EXPERIENTIAL COMMUNITY EXPLORATION

Generally special students are offered experience based exploration during their 9th and 10th grades. This curriculum offering provides the mildly disabled student with several opportunities to examine a variety of occupations available in the local community or in surrounding communities. The basic purpose of this curriculum offering is to expand the special education student's awareness and knowledge of the many occupations that exist in the local or surrounding communities.

ORIENTATION. The students receive a one or two-week orientation prior to placement in the community. The purpose of this one or two-week orientation is to:

1. Establish a problem solving and decision making relationship between the special education teacher, special education student, counselor, and the person responsible for placing the student at various exploration sites throughout the school year.
2. Assess the student's initial career interests through a variety of assessment strategies.
3. Identify, as closely as possible, the student's present awareness levels regarding (a) occupations, (b) what general work skills are required, (c) educational requirements, (d) job seeking skills, (e) their work values, (f) self-concept, and (g) communication and learning style.
4. Anticipate what limiting factors may have to be addressed and accommodated when the student begins exploration activities with community resource persons.
5. Determine alternatives when certain exploration sites are not available.

Question: What does the Wage and Hour Division require so that students will not be considered employees?

Answer: U.S. Supreme Court has established six criteria that must be met in this school offering. The six criteria are:

1. the exploration activities, even though they may include actual participation in the operation of a facility, are similar to that which would be given in a vocational school, i.e., vocational exploration;
2. the learning experience is for the benefit of the student;
3. the student does not displace regular employees, but will work under their close observation for the purpose of knowing what specific work skills are required in the various job ladders within the occupation being explored;
4. the community resource person (owner, operator, or supervisor) provides exploration experiences but derives no immediate advantage from the activities of the student, and on occasion, his/her operation may actually be impeded;
5. the student is not entitled to training or a job at the conclusion of the exploration experience; and
6. the community resource person and student understand that the student <u>is not entitled to wages</u> for the time spent in exploring an occupation.

If any one of these criteria are not met, Wage and Hour will consider the student an employee.

Question: When I place a student for exploration, must I develop a training agreement and plan?

Answer: No. The purpose of this experience is not training, but exploration. Because it is provided under the direction and

supervision of the school district personnel, evaluation of special education student's performance and his/her progress takes the place of the training plan during exploration. This process, when used, does focus classroom instruction around what the student is involved in while exploring various occupations in the community.

A copy of the activity sheet is provided on the next page. If you would like to know more about the EBCE process, you may call or write the person listed below. You will be provided information about someone who can help you directly within your area education agency.

Merry B. Maitre, Consultant
Career-Vocational Education
for the Handicapped Student
Department of Public Instruction
Grimes State Office Building
Des Moines, Iowa 50319
515/281-3176

Student _____

Learning Coordinator _____

Experience Site _____

Start _____ Estimated Stop _____

Actual Stop _____

Subject(s): _____

Disciplines	E/C	CE	MA	NS	SS	PS	Agri.
Interest Area							
Points							

Site Information:

Sheet No.

Code

1. Define Problem
2. Gather Data
3. Analyze Data
4. Generalize
5. Communicate

Objective:

Evaluation Code

5. Excellent
4. Commendable
3. Satisfactory
2. Improving
1. Needs to Improve

Sub-Concept Description

Activities	Code	L.C.	Stu.

Evaluation Based On:

Evaluation Comments:

Distribution: White-Student/Yellow-Learning Coordinator

Revised 4/3/80

ACTIVITY SHEET

PURPOSE: The activity sheet is the basic form used for generating a student's assignments.

QUANTITIES NEEDED: One activity sheet per student per course, per week. Example: A student taking two courses per semester would use 36 activity sheets.

This is a two copy, non-carbon reproduction (NCR) form, with distribution as shown in lower left corner of the form.

SECTION III

"SPECIALLY DESIGNED"
OCCUPATIONAL OR VOCATIONAL TRAINING
(NO PAY)

DEFINITIONS

Student-trainee. A special education student enrolled in a regular vocational training program or enrolled in a "specially designed" program for which the school contracts with a community person to train the student because an appropriate vocational training program is not available from the school. The student is not paid for this experience, but receives school credit towards high school graduation requirements.

Student-learner. A student who is receiving instruction in an accredited school, college, or university, and who is employed on a part-time basis, pursuant to a bona fide occupational training program (regular or specially designed). The student is considered in the co-op phase of his/her program.

Handicapped Worker. An individual whose earning capacity is impaired by age, physical or mental deficiency, or injury for the work he/she is to perform. (Wage and Hour Division.)

Handicapped Trainee. An individual whose earning capacity is impaired by age, physical or mental deficiency, or injury, and who is receiving or is scheduled to receive, on-the-job training in industry under any vocational rehabilitation program administered by the Veterans Administration or an authorized vocational rehabilitation agency operating pursuant to the Vocational Rehabilitation Act, as amended, or by local district personnel and area education agency personnel employed to provide occupational training and/or education.

Training Sponsor. An individual to whom the student-trainee or student-learner looks for instruction and training which is job specific. The training sponsor may be the owner or manager of a business or a responsible

individual appointed by Management to work on a day-to-day basis with the student for instructional purposes.

Training Agreement. A printed form prepared by the secondary special education teacher-coordinator (LEA) or work experience instructor (AEA). The form is completed in a conference between the training sponsor, LEA coordinator, and/or the AEA work experience instructor. Training agreements should be developed based on local conditions and requirements and the individual needs of the special education student and training sponsor.

Training Plan. A written outline of the knowledges, attitudes, and skills the special education student should develop during training and/or work experience. The teacher-coordinator (LEA) or WEI (AEA) develops the training plan by interviewing the training sponsor as to what competencies can be developed and measured during the training experience. The training plan is then developed through an analysis of the tasks and duties needed to be successful in the occupation selected for the student's training experience.

Vocational Education. Organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree (P.L. 94-142 Regulations). (It is taken from the Vocational Education Act as amended by P.L. 94-482.) Under this Act, "vocational education" includes industrial arts, consumer and homemaking education programs.

Cooperative Education (P.L. 94-482) means a program of vocational education for persons who through written cooperative arrangements between the school

and employers, receive instruction including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but these two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability.

"Specially Designed" Vocational Education. Programs that are developed on an individualized basis for special education students who are unable to benefit from regular education's vocational programming. Generally "specially designed" vocational options are developed when:

1. Existing vocational instruction cannot be modified to the degree the handicapped student initially needs.
2. Vocational programming does not exist at the local level to meet the assessed interests and aptitudes of the special education student.

COMMUNITY BASED VOCATIONAL TRAINING
(No Pay) - "Specially Designed"

PROGRAM MODEL	REQUIRED	RECOMMENDATIONS
(1) The special education student-trainee is placed with a person in the community for training. (2) The student receives no pay while being trained. *(3) The student trainee can be placed for training up to 12 weeks at a specific training station. (4) A reinforcement program can be established as an incentive to increase appropriate work behaviors. (5) Student receives school credit towards graduation requirements.	*Individualized Educational Program (IEP) *Training Agreement and Plan *No Pay (An exception exists for the student who is mentally retarded.) *The school district carries liability and accident insurance on students. *Continued Evaluation of Progress. *Adherence to Wage and Hour's Six Criteria *Adherence to all Rules and Regulations promulgated by Federal and State Agencies regarding "training for no pay." *Time in school and at training station cannot exceed the time the student would be required to attend school if following a normal academic schedule. *Related instruction - general and occupation specific *If the handicapped student needs a longer training period than 12 weeks, the school coordinator should contact Wage and Hour (p. 5) to discuss the student's training plan and a continuation of the training plan if needed. If there needs to be an exception made, it should be negotiated and documented with the Wage and Hour Division.	School credit towards graduation **Resources** Weighted monies can be used to pay the employer-trainer for training a special education student. Community School Program (CSP) Funds are available to pay for this training via a CE-100/CE-4 application (DPI).

OCCUPATIONAL OR VOCATIONAL TRAINING
(NO PAY)

Question: Under what circumstances will a special education student not be considered an employee?

Answer: The special education student will not be considered an employee when a training station is developed with a community person for the purpose of training the student in a specific occupation if the Wage and Hour Division's six criteria are met. The six criteria are:

1. the occupational training, even though it includes actual operation of the facilities of the employer-trainer, is similar to that which would be given in a vocational school;
2. the training is for the benefit of the student-trainee;
3. the student-trainee does not displace regular employees, but will work under their close observation for the purpose of learning specific work skills;
4. the employer that provides the training derives no immediate advantage from the activities of the student-trainee, and on occasion, his/her operation may actually be impeded;
5. the student-trainee is not necessarily entitled to a job at the conclusion of the training period; and,
6. the training sponsor and the student-trainee understand that the student-trainee is not entitled to wages for the time spent in training.

This placement enables the local school district to establish a training situation similar to the vocational lab courses required in traditional vocational programs and taught by the

school's vocational instructors. To avoid problems and protect the credibility of the local school district as an education and training institution, special education teacher-coordinators (LEA) and work experience instructors (AEA) must have two things in place at all times:

1. A student training agreement.
2. A student training plan.

This process documents the purpose of the special education student-trainee's program and the progress being made by the student towards the next sequential training step, paid work experience (cooperative education). Wage and Hour Division then defines the student as an employee because they are being paid by the employer-trainer and an employee-employer relationship exists.

Question: Besides the six criteria, what other considerations are necessary when placing a special education student for occupational training (non pay)?

Answer: Wage and Hour will consider the student an employee if:

1. the student-trainee is placed in a one person office.
2. the student-trainee is in a training situation with the same employer-trainer after twelve weeks.
3. the employer-trainer derives any consequential economic benefit from work performed by student-trainee.

Question: What if a severely handicapped student needs more than twelve weeks to be trained to e.g., wash dishes with commercial equipment?

Answer: The intent of the law is to protect all potential employees, whether handicapped or not. It prevents the student-trainee

from becoming "free labor" and prevents one employer-trainer involved in a school-sponsored program from benefiting over another employer-trainer who may not be involved in a school-sponsored training program. If the student needs additional training time, the IEP and training plan must document the need for continuation of training. Wage and Hour should be contacted to approve continuation.

It is recommended that you call the Regional Wage and Hour Office to discuss the situation and get confirmation to continue the current training sequence.

Question: Are any handicapped students exempt from the six criteria when in a training situation?

Answer: There are some exceptions from the six criteria when placing mentally retarded student-trainees. The Office of Wage and Hour will not assert that mentally retarded students' initial participation in a school sponsored vocational training program constitutes an employment relationship if certain conditions are met. However, after an employment relationship has developed, the provisions of the Act will be applicable. The conditions under which an employment relationship initially will not be asserted are:

1. The activities are basically educational, are conducted primarily for the benefit of the participants, and comprise one of the facets of the educational opportunities provided to the students. <u>The student may receive some payment for his/her work in order to have a more realistic work situation, or as an incentive to the student or to insure that the employer will treat the student as a worker</u>.

2. The time in attendance at the school, plus the time in attendance at the training station (on campus or off campus), does not substantially exceed the time the student would be required to attend school if following a normal academic schedule. Time in excess of one hour beyond the normal school schedule or attendance at the training session on days when school is not in session would be considered substantial.
3. The student cannot displace a regular employee or impair the employment opportunities of others by performing work which would otherwise be performed by regular employees who would be employed by a business, industry, school, hospital, fire station, police protection, sanitation, public health, or park and recreation employer. As a general guide, Wage and Hour will assume that an employee-employer relationship exists after three months unless the facts indicate that the training situation has not materially changed.

Question: Can this apply to learning disabled students?

Answer: The Wage and Hour Division is currently reviewing the status of learning disabled students. While Wage and Hour currently does not consider learning disabled students handicapped, some changes are expected.

You are advised to call Wage and Hour (p. 5) if you have any questions regarding the learning disabled student.

Question: What about the six criteria when local district personnel need a training site for a student who is moderately disabled who will require a "long-term" training placement to acquire marketable entry-level skills?

Answer: The intent of the law is to protect all persons whether he/she has a handicap or does not. The purpose of the law is to prevent a student-trainee from becoming "free labor". It also prevents one training sponsor involved in vocational training and work experience from benefiting over another employer who may not be used as a resource person for school-sponsored vocational training and cooperative education.

Question: When is a placement situation not training? (Examples)

Answer:
1. When there is a one-person office occupied by a trainee.
2. When there is an understanding or agreement that the student will be given a job at the conclusion of the training program.
3. When a student is working/training for over twelve weeks with one employer unless it is clearly identified that additional training time is needed.
4. When an employer-trainer derives any consequential economic benefit from work performance by student-trainees.

Question: Can monies generated to support the instructional programming needs of the handicapped student be used to pay the student a wage while in training or work experience?

Answer: No. (See Attachment A at the end of this section.)

Question: Can a monetary reinforcement program for appropriate work behaviors be established to enable student-trainees to increase their work readiness?

Answer: Yes, but it should not be reflected as "wages". Students and parents should be fully informed that a reinforcement program is not wages, but a reinforcer for appropriate work behaviors.

Since the money paid is reinforcement and part of the instructional strategy for some students, a budget figure may be identified for this purpose and paid for out of weighted monies. Reimbursement strategies should be used for brief periods of time. (See Attachment C at the end of this section.)

DEVELOPING A TRAINING AGREEMENT

A training agreement is a management tool prepared in writing to set the stage for training in a special education cooperative program. It outlines the duties and responsibilities of the major parties involved in the cooperative work experience program. Although the training agreement is not a legal contract, it is a businesslike way of coming to an agreement on the responsibilities of the employer or training sponsor, the school, the student, parent, and AEA work experience instructor. The training agreement should be signed by each of the parties mentioned and a copy should be given each of them at the time the student is placed on the job as a student-learner.

The training agreement is a printed form (see Attachment B) prepared by the special education teacher-coordinator (LEA) or the work experience instructor (AEA) and completed in a conference between the special education teacher-coordinator or WEI and the training sponsor. Training agreements should be developed based on local conditions and requirements and the individual needs of the student and the employer (training sponsor). The following lists the items that should be in a training agreement.

1. Clarifies program policies and procedures.
2. Lists the student's career objective.
3. Specifies that the training plan will be developed and followed.
4. Specifies the beginning and ending dates of the training period.
5. States the beginning rate of pay the student will receive.
6. States that the student will be supervised while at the training site.
7. States the student will receive a variety of job experiences.
8. States the minimum and maximum number of hours a week for the training or work experience.

9. Specifies that a student will not be dismissed from the job until a conference is held with the school coordinator.
10. Specifies that it may be necessary for the student to have some time off from the job for special school activities.
11. States that the school will provide instruction in the technical and related subjects.
12. States that the employer agrees not to hire the student trainee on a full-time basis during the training period.
13. Specifies that as long as a student is under 22 years of age and is enrolled in a regular school vocational training program for which he or she will receive credit, their earnings are exempt from both state and federal unemployment benefits.
14. States procedures to be followed if a student will be absent from work.
15. States that if a student is absent from school he/she will not be permitted to go to work, except under special circumstances.
16. States any established dress regulations of the school and training station.
17. States procedures for termination from the job and/or the work experience program if justification is determined by employer and teacher-coordinator.
18. Includes the student's name, date of birth, address, telephone number, and social security number.
19. States the names, addresses and phone numbers of the teacher-coordinator and training sponsor.
20. States that the training sponsor will evaluate the performance of the student on a regular basis for grading purposes.
21. States that the parents are responsible for transportation of the student to and from work.

22. States that the special education teacher-coordinator (LEA) or work experience instructor (AEA) will make regular visits to student and training sponsor at the training site.
23. Specifies the means of insurance coverage for the special education students during the training and cooperative portion of their program.
24. Specifies who should arrange for physical examination before placement if a physical examination is needed.

DEVELOPING A TRAINING PLAN

The training plan can document whether a training situation has or has not evolved into an employee-employer relationship. A training plan should be developed from the career goals established in the student's Individual Educational Program (IEP) and include goals and objectives for related instruction in two areas:

1. Directly Related Instruction. Technical information which is occupationally skill specific, i.e., vocabulary, use of tools, safety on the job, proper dress, getting along with supervisors and other employees, and other specific job related instruction.
2. Generally Related Instruction. Occupationally oriented; it does not specifically relate to a given occupation but deals with common elements of all areas of employment such as:
   a. Job Seeking Skills.
   b. Job Applications.
   c. Job Interviewing.
   d. Work Habits.
   e. Work Attitudes.
   f. Dealing with Job Termination.
   g. Decision Making and Problem Solving Skills.
   h. Interpersonal Skills.
   i. Getting Around the Community and to Work.
   j. Money Management and Consumer Education.
   k. Use of Leisure Time.
   l. Other.

An example of a training agreement and plan are provided at the end of this section.

Since the student-trainee's experience is under the guidance of the school, the student should receive school credit.

"Specially designed" vocational training programs require related instruction being provided by the special education teacher and the training sponsor; it necessitates an agreement as to who will instruct certain components of the student's vocational program. Generally it would be done similar to the schema depicted below.

EXAMPLE

SPECIAL EDUCATION TEACHER*	EMPLOYER-TRAINER*
Generally Job Seeking Skills	Occupational Specific Skills
Personal Social Skill Development	Safety
Accepting Evaluative Criticism	Dress Code
Community Mobility	Work Site Procedures
Consumer Education	Specific Job Skills
Money Management	Assisting Student in Acceptance of Constructive Criticism
Back-up Instruction to Training and/or Work Experience Site	Job Problem Solving Skills
Training as Needed and Identified by Employer-Trainer	Following Directions
Evaluation of the Student's Progress by Observation at Training Site by Special Education Teacher, Teacher-Coordinator, or the AEA Work Experience Instructor	Attendance
Self Concept and Appreciation of Their Own Values	Acceptable Work Behavior and Language
Problem Solving Skills	Evaluation of Student's Performance during Training.

*If the local district has a WEI (AEA Support Person), they can assist with coordination, site development, and follow-up on students at the site to facilitate the coordination of related instruction; however, WEIs are not instructional personnel. This is the responsibility of secondary special education teachers (LEA).

PAYING THE TRAINER-SPONSOR TO TRAIN

The employer-trainer can be reimbursed for training a special education student if needed. Monies for this can be expended from the weighted monies the special education student generates for "appropriate instruction" or the local district can file for vocational funds entitled "Community School Program" (CSP) via a CE-100/CE-4 process with the Career Education Division (DPI). (See Attachment A.)

For additional information please call or write:

Weighted Monies

Career and Vocational Education
Consultant for Handicapped
Students
Iowa Department of Public
Instruction
Special Education Division
Grimes State Office Building
Des Moines, IA 50319
515/281-3176

CSP Funds (Community School Program)

Special Needs Consultant
Iowa Department of Public Instruction
Special Needs Section
Grimes State Office Building
Des Moines, IA 50319
515/281-3686

It is recommended that special education students placed for occupational training not be paid for the training experience. School credit towards graduation is recommended.

Rationale. A student-trainee should be able to demonstrate satisfactory skill levels in the occupational area he/she elected to be trained in prior to the student entering an employee-employer relationship (co-op work experience) which requires a wage to be paid. This does not preclude the special education student from seeking a part-time job after school hours if he/she chooses. This training program is designed to provide the special student specific vocational training prior to paid co-op work experience as a part of a school sponsored training program. It also is an effort to better train the special education student with higher level

skills. By so doing, it is anticipated that many special education students will be able to more assertively enter occupations at a higher level than school personnel have traditionally been able to accomplish during the handicapped student's secondary program.

5100-D85187-8/81 Attachment A

STATE OF IOWA • DEPARTMENT OF PUBLIC INSTRUCTION
GRIMES STATE OFFICE BUILDING • DES MOINES, IOWA 50319

ROBERT D. BENTON, Ed.D., STATE SUPERINTENDENT
David H. Bechtel, M. S., Administrative Assistant
JAMES E. MITCHELL, Ph.D., DEPUTY SUPERINTENDENT

DATE: 1982-83 School Year

TO: AEA Administrators, Area School Superintendents, Special Education Directors, Area School Vocational Education Directors, Work Experience Instructors, Special Needs Coordinators, Special Education Consultants, Career Education Consultants, LEA Administrators, General and Special Education Staff

FROM: J. Frank Vance, Director, Special Education Division
Dan Kroloff, Chief, Special Needs Section

SUBJECT: Use of Funds Generated Through the Weighted Per Pupil Index Plan to Provide Career/Vocational Education for Handicapped Students*

This memo is to clarify the current position of the Special Education Division and Special Needs Section on the above stated issue. It is not meant to preclude continued discussion and exploration of other positions, but merely to state the existing situation.

The specific career/vocational programming needs of handicapped students who are enrolled in any district's junior/senior high school special education instructional program can be met in a variety of ways. They may include:

1. Enrollment in any general or specially designed career/vocational program offering. Examples are:
   a. general career/vocational program offering available within the district.
   b. specially designed vocational programs that are developed by vocational and/or special education staff.

*See attachment A for description of funds available through the weighted per pupil index plan.

c. contracting with another LEA for general or specially designed career/vocational programming (28E.12)

d. contracting with local business and industry, licensed work-activity centers, sheltered workshops, area vocational schools, community colleges, or private providers.

2. Enrollment in any AEA special education operated program.

3. Enrollment on a day school basis via contractual arrangements with state institutions who serve the handicapped.

The local school district has the option of providing such services directly or making provision for such services through contractual arrangements; however, the AEA Director of Special Education has the responsibility, under the law, for assuring the appropriateness of the program for each handicapped student. All special education facets of a handicapped student's educational program are to be correlated and monitored through the IEP process.

The weighted dollar cannot be used to provide career/vocational training for a handicapped student who is not participating in a special education instruction program. If a student has no special education instructional program need, the student is weighted 1.0.

For Resource Teaching Program students (1.7 weighting), vocational training must be paid for from the 1.0 portion of the dollars generated; thus retaining the .7 funds for RTP direct program expenditures. This is true if the resident district provides the RTP itself or contracts for those services from another agency.

If the resident district provides special class with integration (SCI) programs (1.7 weighting) and specially designed vocational training <u>in addition to the usual general education integration</u>, it may use funds generated through the weighted per pupil index plan for the vocational training. The actual vocational training costs incurred, whether by contractual arrange-

ment or self provision, may be added to the SCI direct program expenditures. The formula automatically provides 45% of the 1.0 to support the usual general education integration, administration, and direct costs for each handicapped student served in a special class with integration. Usual general education integration is defined as approximately 25% of the school day for the SCI program model.

If the resident district provides self-contained programs (2.2 or 3.8 weighting) and specially designed vocational training, it may add to the self-contained special class direct program expenditures the actual vocational costs incurred, again, whether those costs were incurred by contractual arrangement or by self provision.

If a local district does not have sufficient funds available through the weighted per pupil index for a student to finance the total special education instruction program (including career/vocational programming), additional financial resources need to be pursued.

Additional financial resources might include:

a. Balances from other special education instructional programs available through the total funds generated by the district's weighted per pupil indices;

b. The school district's general fund;

c. Special Needs Vocational funds;

d. RESB;

e. CETA;

f. NARC (National Association for Retarded Citizens OJT Funds);

g. or any other agencies who have responsibility for assisting in meeting the career/vocational training needs of secondary school age handicapped persons.

We recognize we have a long way to go in developing and delivering appropriate vocational training to Iowa's secondary handicapped students; and, no doubt, new concepts and delivery systems will evolve over the years. For now, however, the above-mentioned provisions and options are those available under the statutes and rules of special education.

The local school district's obligation under the law is not to guarantee employability for all handicapped students upon completion of their program, but to prepare students to be able to pursue competitive employment, sheltered employment, or post secondary training experiences as appropriate for each student.

Sincerely,

J. Frank Vance, Director
Special Education Division

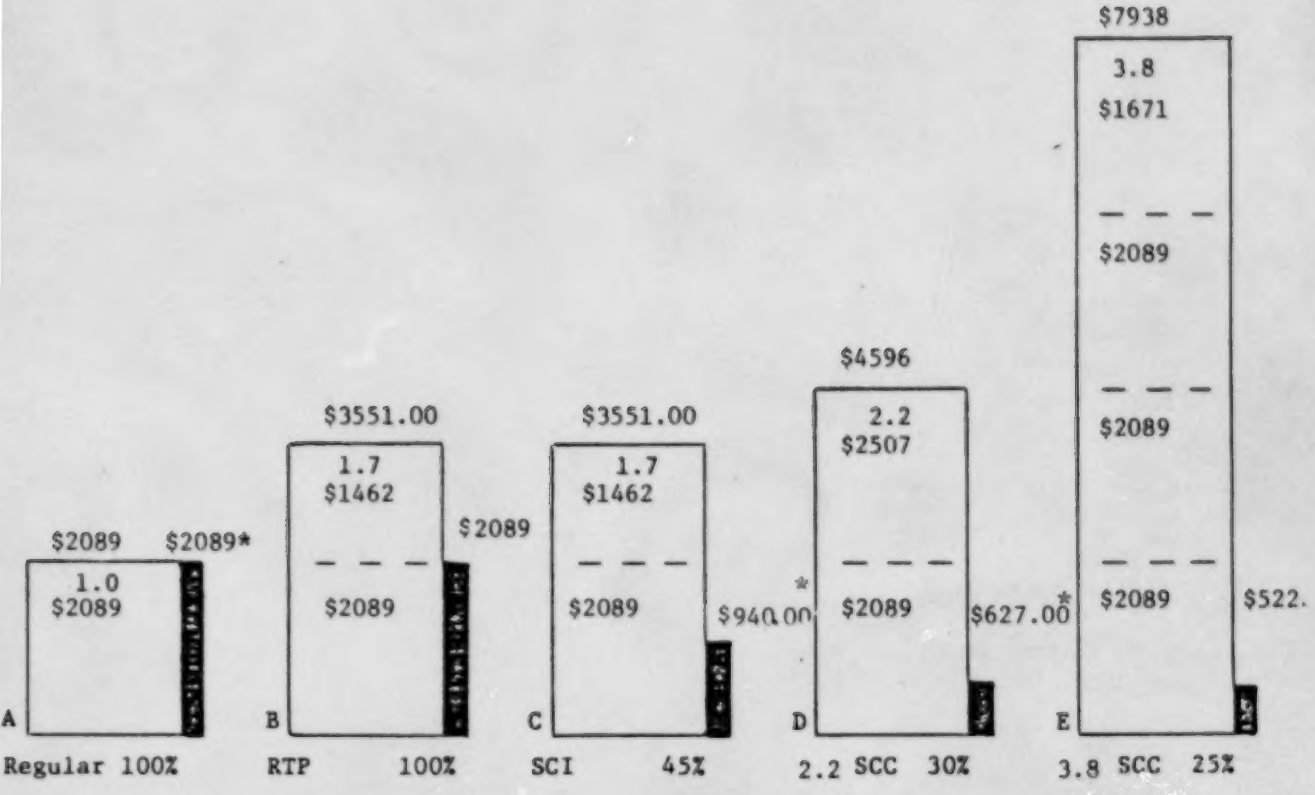
Dan Kroloff, Chief
Special Needs Section

FOUNDATION PLAN
Chapter 442

		Maximum Authorized Budget
Miscellaneous Income	Unspent Balance Federal Aid Special State Aid SBRC Allow. (from Appr. Funds)	Controlled Budget =
	Additional Mill Levy	District Cost Per Pupil x Weighted Enrollment Foundation Level
	State Aid	(Approx. 60% State Average 1982-83) Including Ag. Land and Other Property Tax Relief
	Uniform Property Tax	$5.40/$1,000 Assessed Valuation

*Includes AEA Support Flow-through Dollars

Comparison of Regular Program Expenditures Per Pupil*
to Total Instructional Program Dollars Generated:
Weighting Plan via Foundation Plan
1982-83



A. Pupils in a regular curriculum are assigned a weighting of 1.0.

B. Children requiring special education who are enrolled in a regular classroom program for most of the school day, but who require special education instruction in specific skill areas on a part-time basis are assigned a weighting of 1.7; Resource Teaching Program (RTP).

C. Children requiring special education with similar educational needs who are enrolled in a special education classroom but who can profit from participation in one or more academic subjects with pupils who are not handicapped are assigned a weighting of 1.7; Special Class with Integration (SCI).

D. Children requiring special education who require full-time, self-contained special education placement with little integration into a regular classroom are assigned a weighting of 2.2; Self-Contained 2.2 Class (2.2 SCC).

E. Children requiring special education who are severely handicapped or who have multiple handicaps or who are chronically disruptive are assigned a weighting of 3.8 (3.8 SCC).

*Based on 1982-83 state average cost per pupil of $2089. Actual district per pupil cost will vary from district to district.

Attachment B

DISTRIBUTION:
Student — *White*
Employer — *Green*
School Official — *Canary*
Work Experience Instructor — *Pink*
Work Experience Supervisor — *Gold*

LOESS HILLS AREA EDUCATION AGENCY

TRAINING AGREEMENT

Student's Name: _____ DOB: _____ Age: _____ Sex: _____

Student's Address: _____ Phone: _____ Grade: _____

Training Station Name: _____ Phone: _____

Training Station Address: _____

Employer's Name: _____ Supervisor's Name: _____

Supervisor's Position: _____

Coordinator's Name: _____ Phone: _____

Coordinator's Address: _____

This agreement is made and entered into this ____ day of _____, 19__, by and between _____ and _____ Community Schools, _____, Iowa.

It is the mutual desire of the parties of this contract to provide instruction in _____ for (student) _____ in the _____ Community School District. The purpose of this contract shall be to facilitate the effective development, administration and supervision of the necessary program and services.

RULES AND REGULATIONS

A. The student agrees to the following:

1. To be regular in attendance in school and on the training site.

2. To be on time at school and at the training site.

3. To notify the teacher/counselor or work experience instructor and the trainer as early in the day as possible on days that he will be absent from school.

4. If absent from school, must also be absent from the training site that day.

5. To conduct himself in a satisfactory manner, both on the training site and in the classroom, or the training may be discontinued and the student removed from the program with a loss of credit.

6. To make a real effort to abide by all school rules and regulations, and thereby avoid detentions.

7. While at the training site, the school program and the appropriate school rules apply -- no smoking on the job, etc.

8. To know that it is his responsibility to be well dressed and groomed both in school and on the training site.

9. Not to quit or change training situations without first talking this over with parents and the work experience instructor and receive mutual agreement from them.

10. To realize that he is under the jurisdiction of the school throughout the training hours.

11. To know that the work experience instructor is the recognized authority for adjustments or changes in training.

12. To inform the work experience instructor immediately if any problems or difficulties arise at the training station.

13. To perform the tasks as specified on the training plan.

14. To meet with the work experience instructor at least once per month, and more often if necessary, to discuss performance, grievances, etc.

B. The Training Station agrees to the following:

1. To provide an experienced trainer who will be responsible for instruction.

2. To provide ___ weeks of instruction that is commensurate with the ability level of the student enrolled.

3. To provide the equipment, tools and materials necessary for instructional experiences.

4. To provide a written evaluation of each student's performance.

5. To provide a safe place for the student-learner to work and learn according to OSHA regulations.

6. To provide the student with on-the-job training relative to the student's career objective.

7. To meet with the work experience instructor and help evaluate the student a minimum of once per month.

8. To discuss with or notify the work experience instructor of any problems or difficulties with the student before dismissing the student.

9. To provide adequate supervision.

10. To work with the work experience instructor and student developing a training plan that meets with everyone's needs.

11. To follow the Department of Labor Guidelines listed below.

    a. The training, even though it includes actual operation of the facilities of the employer, must be similar to that which would be given in a vocational school.

    b. The training must be for the benefit of the trainees or students.

c. The trainees or students must not displace regular employees, but work under their close supervision.

d. The employer or tradesman that provides the training must derive no immediate advantage from the activities of the trainees or students and on occasion his operation may actually be impeded.

e. The trainees or students are not necessarily entitled to a job at the conclusion of the training period.

f. The employer or tradesman and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

C. The work experience instructor agrees to the following:

1. To systematically supervise the student at the training station.

2. To objectively evaluate the training station and the student's performance according to the criteria in the training plan.

3. To keep factual and concise records of student performance.

4. To meet with the students at least once per month and more often if necessary, to discuss performance, grievance, etc.

5. To meet with the employer a minimum of once per month to discuss the training station, student performance, etc.

D. The community school district agrees to the following:

1. To provide transportation if necessary.

2. To help supervise the student and provide counseling services.

3. To extend school insurance to cover the student while in the training program during regular school hours.

4. To grant academic credit for successful completion of the training program.

E. The parents or guardians agree to the following:

1. To be responsible for the personal conduct of the student, if a minor, while at the work station.

2. To be responsible for the safety of the student, if a minor, while traveling to and from the school, training station and the home.

3. To support the program and the student and cooperate with the school and the work experience instructor.

Student:_____ Date:_____

Employer:_____ Date:_____

School Official:_____ Date:_____

Work Experience Instructor:_____ Date:_____

LOESS HILLS AREA EDUCATION AGENCY

White — *WEI*
Canary — *School*
Pink — *Student*

WORK EXPERIENCE INSTRUCTOR COORDINATION VISIT FORM

STUDENT: _____

SCHOOL: _____

DATE OF VISIT: _____

TIME OF VISIT: _____

Name of Business: _____

Address of Business: _____ Telephone: _____

Contact Person: _____ Title: _____

Reason for Visit: _____

Student's Strengths: _____

Student's Weaknesses: _____

Conditions of Training Station: _____

Training Supervisor's Comments About Student: _____

Other Employees' Comments: _____

Immediate Related Instruction Needed: _____

Problems: _____ Action To Be Taken: _____

_____ _____

W. E. I's Signature (Date)

DISTRIBUTION:
Student — *White*
Employer — *Canary*
School Official — *Pink*
Work Experience Instructor — *Gold*

LOESS HILLS AREA EDUCATION AGENCY

TRAINING PLAN

Student _____ D.O.B. _____

School _____ Date _____

Student's Career Objective _____

Training Station _____ Phone Number _____

Training Station Address _____

Training Supervisor _____ Position _____

EVALUATION SCALE

1=Fail 2= Below Average 3=Average 4= Above Average 5=Excellent

COMPETENCIES	EVALUATION 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	DEGREE OF INDEPENDENCE WITHOUT ASSISTANCE	WITH ASSISTANCE	ACCEPTABILITY IN COMPETITIVE EMPLOYMENT ACCEPTABLE	NOT ACCEPTABLE

EVALUATION SCALE

1=Fail 2= Below Average 3=Average 4= Above Average 5=Excellent

COMPETENCIES	EVALUATION 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	DEGREE OF INDEPENDENCE WITHOUT ASSISTANCE	WITH ASSISTANCE	ACCEPTABILITY IN COMPETITIVE EMPLOYMENT ACCEPTABLE	NOT ACCEPTABLE

EVALUATION SCALE

1=Fail 2= Below Average 3=Average 4= Above Average 5=Excellent

COMPETENCIES	EVALUATION 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	DEGREE OF INDEPENDENCE WITHOUT ASSISTANCE	WITH ASSISTANCE	ACCEPTABILITY IN COMPETITIVE EMPLOYMENT ACCEPTABLE	NOT ACCEPTABLE

Signature of Instructor or Trainer

Signature of Student

Signature of Work Experience Instructor

INSURANCE OBLIGATIONS AND PARENT CONSENT FORM

1. We, the undersigned parents of _____ who is currently participating in a work study program offered as part of the curriculum of the _____ Community Schools of _____ we do hereby acknowledge that it is our obligation and responsibility to make certain that our child is adequately protected by medical and/or disability insurance for personal injuries that may occur while our child is working for the training supervisor associated with said work study program.

2. Based on the foregoing, we, the undersigned parents do hereby promise that we will never, individually or as legal guardians for our minor child, _____, institute any action at law or in equity, against the _____ Community Schools, its administrators and teachers, employers, and the work study training supervisors on account of any injury or other loss that may be sustained by us or by our minor child as a consequence of his/her participating in the aforementioned work study program. We further promise that the preceding covenant shall bind us and our legal heirs, assigns, and representatives.

NAME OF INSURANCE COMPANY: _____

POLICY NUMBER: _____

AGENT'S NAME: _____ TELEPHONE: _____

Is student's name listed on the policy:

YES _____ NO _____

_____

Parent or Guardian

_____

Parent

65

PARENT CONSENT FORM

We, the parents/guardians of _____ agree to his/her participation in the Work Experience Program as designed by the _____ Community School District and Loess Hills Area Education Agency 13. We are aware this will involve on-the-job experience in the community during his/her school hours and are aware this is considered part of his/her school program.

_____

Parent/Guardian

_____

Parent/Guardian

_____

Date

Attachment C

STATE OF IOWA • DEPARTMENT OF PUBLIC INSTRUCTION
GRIMES STATE OFFICE BUILDING • DES MOINES, IOWA 50319

Iowa
a place to grow

ROBERT D. BENTON, Ed.D., STATE SUPERINTENDENT
David H. Bechtel, M. S., Administrative Assistant
JAMES E. MITCHELL, Ph.D., DEPUTY SUPERINTENDENT

Dear

You asked if I would respond to your questions to the Division regarding the utilization of weighted monies to pay special education students wages for on-campus jobs.

It is the Division's position that monies generated to support the instructional programming for handicapped students cannot be utilized for paying wages to special education students. Monies generated by each student has an identified percentage (see attachment) which automatically goes for the support and operation of the school. These monies, plus others available from federal and state allocations and miscellaneous income are identified and earmarked for certain department budgets within the school, e.g., lunch programs, busing, media.

In training any student vocationally, the experiences provided under the supervision of the school should be as realistic as possible. The responsibility for the payment of the student in a training program is the department's employing the student. Pay should be given by that department to the student to approximate realistically the next training or employment situation off-campus. This also facilitates compliance with Wage/Hour and Child Labor Regulations.

There was also a question regarding the provision of monetary reinforcement for appropriate behavior versus a wage paid to fulfill a work training agreement. If a classroom teacher is preparing a particular student to be employed part-time in a training situation and uses monetary reinforcement, it should be identified as such. It would also be wise to counsel the student and parent as to "why?".

Reinforcement for specific behavior is different than being at a work site and being paid for work completed satisfactorily. Student and parent should not be misled as to the intent and purpose of the school program. It may put the school in a precarious position when transferring that type of reinforcement wage to a realistic community job placement. It lends an unrealistic aura to what the school training program should be doing. The

following is a suggestion as to school procedure concerning wage and hour regulations and monetary reinforcement for appropriate behavior.

1) Because of federal and state wage and hour regulations, monetary reinforcement of appropriate behavior should be identified for what it is so there will be no legal conflict if a school was ever queried. Since it is reinforcement to and a part of instructional strategy for some student, a budget figure could be identified for that purpose and paid for out of instructional funds.

2) When the student has completed work adjustment training or exploration for which they were not compensated, other than for school credit, they then can be placed in work experience situations where the teacher or Work Experience Instructor (AEA support person) can negotiate with the prospective employer (school or other) for a work experience site and wage for the student. The payment of a wage is necessarily paid out of the budget of those school departments or the business/industry employing the student on a part-time basis. It also means that it is done in compliance with federal wage and hour requirements.

The following is a general diagram of the exploration/preparation sequence:

Phase	Age/Grade	Activities	Funding
Exploration	Junior High/ High School Approximately ages 16-19	Simulated Work Samples Paper/pencil tests identifying occupational readiness levels. Shadowing/field trips	Instructional
Exploration	Junior High/HS (Voluntary on the part of student-school credit given)	Simulated Experiences .Work samples, i.e., Project Discovery, Valpar, Singer/Graflex, JEVS, .COATS Other Activities .Shadowing .Field Trips	Instructional or Innovative Projects i.e., (Title IV, Special Needs) Voluntary Community Resources Transportation/School Voluntary Community Resouces Transportation/School
Experiential	Approximately Ages 16-19	Situational Activities for assessment .Place on campus or off campus for exploration activities, i.e., EBCE (Experience Based Career Exploration)	Reinforcement funds for behavior management if necessary Voluntary-Student and Community Person

Student's career interests, aptitudes, strengths and limitations are identified during the exploration phase.

Phase	Age/Grade	Activities	Funding
Preparation	High School Approximately ages 17-21; Student placed in training situation to prepare them for work-experience. Student given school credit but not paid	Work Adjustment/ Career/Vocational Training On campus programming Off campus programming	.School vocational programs .Instructional if "specially designed" .Special Needs, i.e., Community School program Funding (CSP) .CETA (Allowance)
Preparation	Work Experience or More indepth vocational training	Work Experience Career/Vocational Training .On campus sites .Business and industry .School Vocational Programs .Community College Vocational training programs (28E.12 agreement) .Other	Employer/Trainer .Paid in compliance with federal/state wage and hour. .Business/industry .CETA .OJT (National Association Retarded Citizens)

Any career/vocational training and work experience activity must originate out of an IEP staffing. The IEP will then facilitate the development of a training plan. This would enable school districts meeting a policy memorandum published by U.S.O.E. stating that any cooperative vocational education program supported in whole or in part with federal funds or state and local matching and maintenance of effort funds must conform to the statutory definition for such programs contained in the regulations of P. L. 94-482.

Any cooperative vocational education program must meet all of the following requirements:

(1) The program must be a program of vocational education. Vocational education programs are organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment or for additional preparation for a career requiring other than a baccalaureate degree (P. L. 94-482).

(2) There must be a written cooperative arrangement (agreement) between the school and the employers.

(3) There must be instruction (including required academic instruction) in school related to the occupational training and/or work experience.

(4) The alternation of study and work are planned and supervised by the school and employer in order to further the student's education and employability.

(5) Students must be employed and compensated (paid) in conformity with Federal, State and local laws.

There are certainly a variety of instructional situations that can be developed as "spin offs" from the schema provided in this letter. It was my intent only to outline the general parameters.

If I can clarify your concerns any further, please let me know.

Sincerely,

PUPIL PERSONNEL SERVICES BRANCH
SPECIAL EDUCATION DIVISION

Merry Maitre, Consultant
Career-Vocational Education
for the Handicapped Student

MM:nmh

Enclosures

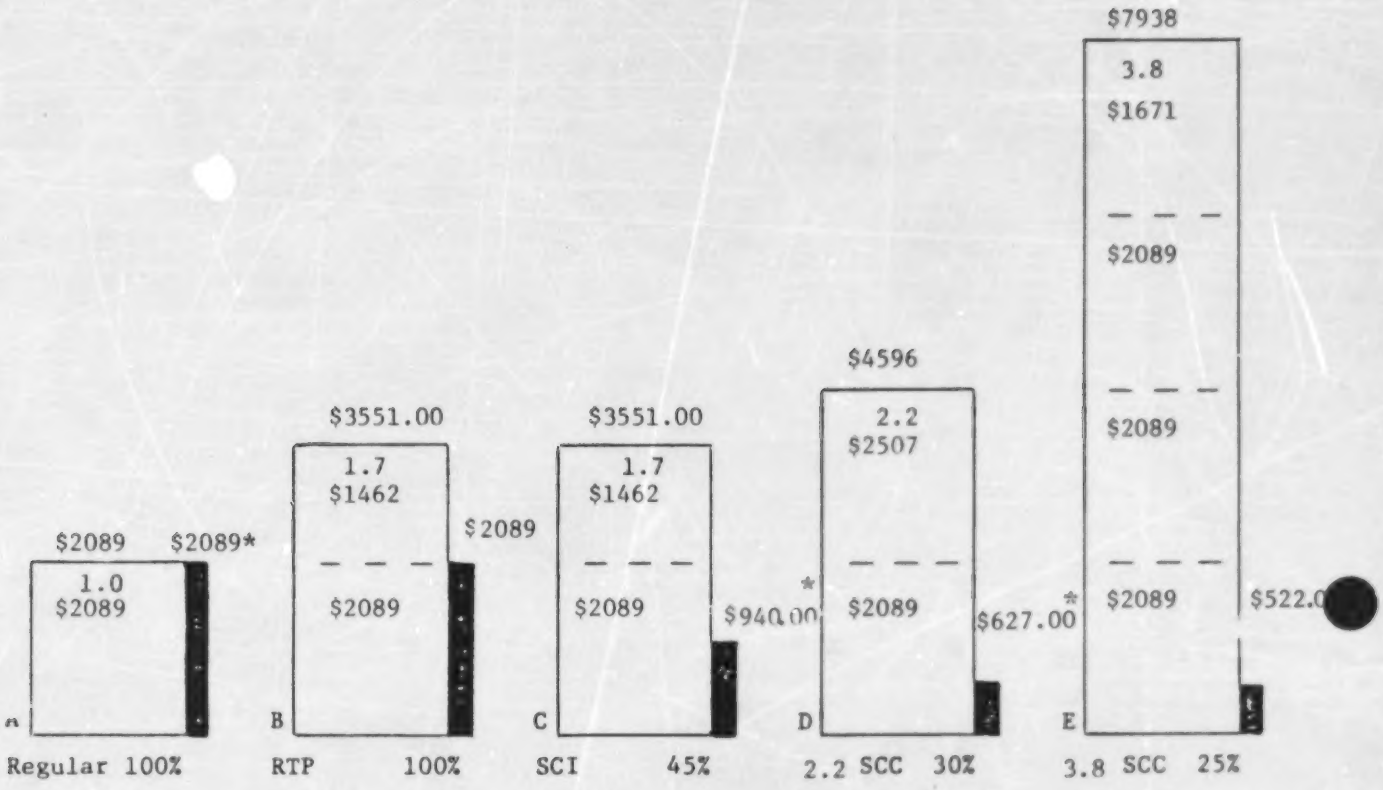
cc:

FOUNDATION PLAN
Chapter 442

		Maximum Authorized Budget
Miscellaneous Income	Unspent Balance Federal Aid Special State Aid SBRC Allow. (from Appr. Funds)	Controlled Budget =
	Additional Mill Levy	District Cost Per Pupil x Weighted Enrollment Foundation Level
	State Aid	(Approx. 60% State Average 1982-83) Including Ag. Land and Other Property Tax Relief
	Uniform Property Tax	$5.40/$1,000 Assessed Valuation

*Includes AEA Support Flow-through Dollars

Comparison of Regular Program Expenditures Per Pupil*
to Total Instructional Program Dollars Generated:
Weighting Plan via Foundation Plan
1982-83



A. Pupils in a regular curriculum are assigned a weighting of 1.0.

B. Children requiring special education who are enrolled in a regular classroom program for most of the school day, but who require special education instruction in specific skill areas on a part-time basis are assigned a weighting of 1.7; Resource Teaching Program (RTP).

C. Children requiring special education with similar educational needs who are enrolled in a special education classroom but who can profit from participation in one or more academic subjects with pupils who are not handicapped are assigned a weighting of 1.7; Special Class with Integration (SCI).

D. Children requiring special education who require full-time, self-contained special education placement with little integration into a regular classroom are assigned a weighting of 2.2; Self-Contained 2.2 Class (2.2 SCC).

E. Children requiring special education who are severely handicapped or who have multiple handicaps or who are chronically disruptive are assigned a weighting of 3.8 (3.8 SCC).

*Based on 1982-83 state average cost per pupil of $2089. Actual district per pupil cost will vary from district to district.

SECTION IV

"SPECIALLY DESIGNED"

VOCATIONAL COOPERATIVE EDUCATION

AND

OTHER PROGRAM OPTIONS

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DEFINITIONS

Cooperative Education means a program of vocational education for persons who through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but these two experiences must be planned and supervised by the school and the training sponsor so that each contributes to the student's education and to his or her employability. (P.L. 94-482)

Student-Learner means students enrolled in a cooperative education program as identified above. The student can be paid minimum or subminimum wage depending on the individual situation. Those situations are described in this section. The Wage and Hour Division considers these students employees of the training sponsor even though it is a cooperative education program.

Student is a term used when a full-time student is released from school to work as an incentive for the student to stay enrolled in school. The student may or may not be supervised by school personnel (local district policy). Credit towards graduation for work release or work study is also based on local district policy.

Minimum Wage. The minimum wage has been $3.35 an hour since Jan. 1, 1981.

Commensurate Wage Rate. Wages paid to handicapped workers must be comparable to those paid to nonhandicapped workers in the industry in the vicinity for essentially the same type, quality and quantity of work. If a handicapped person was to receive a percentage of the prevailing wage rate, it would be based on what the rate is locally, not minimum wage, i.e., a dishwasher gets $4.00 an hour at Joe's Place. However, if the

minimum wage is the higher of the two, then the percentage is based on the minimum wage.

Full-Time Students. Part 519 of the FLSA addresses "full-time" students. Full-time students means the students are in school full-time and are employed in a retail, service establishment, agriculture, schools, or institutions of higher education after school hours. Under a subminimum wage certificate issued by the Wage and Hour Division these "full-time" students may work at 85 percent of the minimum wage.

Handicapped Worker means an individual whose earning capacity is impaired by age or physical or mental deficiency or injury for the work he/she is to perform. (Part 524.2)

Handicapped Trainee means an individual whose earning capacity is impaired by age or physical or mental deficiency or injury, and who is receiving or is scheduled to receive on-the-job training in industry under any authorized vocational rehabilitation agency operating pursuant to the Vocational Rehabilitation Act, as amended, or school sponsored program.

This section addresses Federal Wage and Hour Regulations regarding:

1. Full-time Students who are enrolled in high schools, colleges, vocational or community colleges full-time but are not enrolled in any school sponsored vocational cooperative training program. These students can be employed in a retail, service establishment, agriculture, school or institutions of higher education at 85 percent of the minimum wage if a certificate has been issued by the Wage and Hour Division to the employer.

   Students identified as enrolled in "work release" or "work study" programs, which are designed to aid the student financially to stay in school or college, may fall under this category. This option is not considered a vocational training program even if the full-time student is getting on-the-job training and experience through their employment.

   Employers in retail, service, or agriculture are restricted on the number of hours that full-time students can be employed at 85 percent of the minimum wage under a certificate. (Please contact the Regional Wage and Hour office for specific information.)

2. Student-Learners are students enrolled in school sponsored occupational training programs who are receiving related instruction in an accredited school, college, or university and are employed on a part-time basis, pursuant to a bona fide occupational training program. Students enrolled in this option can be paid 75 percent of minimum wage if a certificate has been obtained from the Wage and Hour Division.

3. Handicapped Student-Learners placed in competitive employment for on-the-job training (OJT) may receive less than minimum wage in an effort to prevent curtailment of their opportunities for employment. Depending on the individual situation, the handicapped person can receive 50 percent, or in some instances, if documented, less than 50 percent

of minimum wage but not less than 25 percent of minimum wage. These, too, must be approved by obtaining a proper subminimum wage certificate from the Wage and Hour Division.

"SPECIALLY DESIGNED"

VOCATIONAL COOPERATIVE EDUCATION

(Work Experience)

Wage and Hour Regulation

Part 520

Application Form (WH-205)

COOPERATIVE WORK EXPERIENCE (SPECIALLY DESIGNED)

(PAID)

PROGRAM MODEL	REQUIRED	RECOMMENDATIONS
.Student-learner is paid for productive employment .A training agreement and plan is in place for all special education students placed by LEA or AEA personnel *.Related instruction will be provided the student by the secondary special education teacher. .Goals and objectives in the special education student's IEP. .The special education student-learner meets definition two on page 64 and is eligible for the 75% of minimum wage or for less if the student comes under definition number three on page 64.	Individualized Educational Program (IEP) Training Agreement and Training Plan Related Instruction (General and Occupation Specific) If less than minimum wages are to be paid, the appropriate application must be processed with the Wage and Hour Division School credit towards the student's graduation requirements *The training plan is necessary so that additional instruction needed by the special education student can be developed by the special education teacher in concert with the work experience instructor (AEA). Work experience instructors are support persons and not instructional personnel. This fact reinforces the necessity for training plans which link the community training site to classroom instruction and special education teachers.	Assist transition activities from the school's vocational training and post secondary situation.

Question: What is FLSA's definition of a student-learner who qualifies for less than minimum wage?

Answer: Section 14 of FLSA, Title 29, Part 520 describes student-learners as students who are receiving "related" instruction in an accredited school, college, or university and who are employed on a part-time basis, pursuant to a bona fide vocational training program. A "bona fide vocational training program" is one authorized education body and provides for part-time employment training which may be scheduled for a part of the work day or work week..., supplemented by an integrated design to teach technical knowledge and related industrial information given as a regular part of the student-learner's course by an accredited school. ("Specially designed" programs should therefore be described in the local district's curriculum and approved by the local board.)

Question: When should the special education teacher-coordinator or WEI file Application Form WH-205?

Answer: Once an employee-employer relationship exists at a student-learner training station, general Wage and Hour Regulations and Child Labor Laws must be followed. However, some special student-learners move into the cooperative (pay) phase of their vocational program before they are as productive as other workers. Because of this fact, the training sponsor may not feel that he/she can pay the student-learner minimum wage. If, for valid reason, the training sponsor cannot employ the student-learner at minimum wage, they may apply for a Student-Learner Certificate (using Application Form WH-205) which will entitle a student-learner to be employed at 75 percent of the minimum wage. (As of January, 1981, the minimum wage is

$3.35 per hour.) The minimum wage covers most retail and service establishments that are part of a chain or have more than one business outlet, regardless of their sales volume. If the training sponsor does not know whether the minimum wage applies to his/her business, the training sponsor should contact the Wage and Hour office in Des Moines for assistance.

1. Applications (usually completed by the special teacher-coordinator or WEI) must be made on the official form furnished by the Wage and Hour Division of the Department of Labor and must be signed by the employer, the special student-learner and the coordinator. These application forms are sent to: Regional Office, Wage and Hour Division, U.S. Department of Labor, 2000 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106. (See Attachment D at the end of this section.)
2. (520.6-a) The special minimum wage rate shall not be less than 75 percent of the applicable minimum wage.
3. (520.6-b) No student-learner certificate may be issued retroactively.
4. (520.6-c) Total hours worked at subminimum wage under an approved certificate when added to hours of classroom instruction may not exceed forty total hours each week except
   a. the student-learner works no more than eight hours on any school day when school is not in session. When school is not in session, the student-learner may work hours in addition to those authorized by the certificate provided:
   b. the student-learner works no more than forty hours in any week during the school term when school is not in session for the entire week.

5. (520.6-d) If a student works more than the authorized number of hours in a week, then the student must be paid the full minimum wage for all hours above the approved subminimum hours except as noted in number four above.

6. (520.8) The duration of the approved subminimum wage form may be for:

   a. one school year (two semesters) -- or

   b. summer employment and one semester.

   NOTE: The only exception to this is if a student changes to a completely different job and another certificate is filed for approval. Also, there is a reconsideration and review procedure (520.10) if an application is denied.

7. (520.5 a-k) There are conditions that are necessary for favorable review or approval of the subminimum wage certificate (50.5).

   a. Any training program under which the student-learner will be employed must be a bona fide vocational training program as defined in section 520.2.

      > A "bona fide vocational training program" is one authorized and approved by a state board of vocational education or other recognized educational body and provides for part-time employment training which may be scheduled for a part of the work day or work week for alternating weeks or for any other limited periods during the year, supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related industrial information given as a regular part of the student-learner's course by an accredited school, college or university.

   b. The employment of the student-learner at subminimum wages authorized by the special certificate must be necessary to prevent curtailment of opportunities for employment.

c. The student-learner must be at least 16 years of age.

d. The student-learner must be at least 18 years of age if he/she is to be employed in any activity prohibited by virtue of a hazardous occupation order of the Secretary of Labor.

e. The occupation for which the student-learner is receiving preparatory training must require a sufficient degree of skill to necessitate a substantial learning period.

f. The training must not be for the purpose of acquiring manual dexterity and high production speed in repetitive operations.

g. The employment of a student-learner must not have the effect of displacing a worker employed in the establishment.

h. The employment of the student-learner at subminimum wages must not tend to impair or depress the wage rates or working standards established for experienced workers for work of a like or comparable character.

i. The occupational needs of the community or industry warrant the training of student-learners.

j. There are no serious outstanding violations of the provisions of a student-learner certificate previously issued to the employer, or serious violations of any other provisions of the Fair Labor Standards Act of 1938, as amended by the employer which provide reasonable grounds to conclude that the terms of the certificate would be complied with, if issued.

k. The issuance of such a certificate would not tend to prevent the development of apprenticeship in accordance with the regulations applicable thereto (Part 521 of this chapter) or would not impair established apprenticeship standards in the occupation or industry involved.

8. (520.7 a-c) Employer records:

...Subminimum wage forms must be filed (mailed) on or before the date the employee begins employment.

...An age certificate must be available for workers 16 years of age or older. A work permit must be filed for 14-15 year olds.

...The student is listed on the payroll records along with their rate of pay.

...Notations should be made in the employer's records when additional hours are worked by reason of school not being in session.

...Failure to follow subminimum wage regulations revokes all certificates and the Secretary of Labor may sue for back wages and for an equal amount as liquidated damages.

9. Termination of a cooperative education student from the school program also terminates the subminimum wage certificate.

10. The authorization for employment at subminimum wage takes effect when the application form is filed (mailed). If the application has been completed correctly, it becomes the special minimum wage certificate and no certificate will be mailed.

Attachment D

OMB Approval No. 44-R0308

U.S. DEPARTMENT OF LABOR
Employment Standards Administration
Wage and Hour Division

OFFICIAL USE ONLY
A. Control number _____
B. Effective date _____
C. Expiration date _____
D. Reviewing official _____

APPLICATION FOR AUTHORIZATION TO EMPLOY A STUDENT-LEARNER AT SUBMINIMUM WAGES

The school official's certification in Item 27 of the application provides temporary authority to employ the named student-learner under the terms proposed in the application which are in accordance with section 3(c) of the Student-Learner Regulations (29 CFR 520). The authority begins on the date the application is forwarded to the Regional Office of the Employment Standards Administration. At the end of 30 days, this authority is extended to become the approved certificate unless the Administrator or his/her authorized representative denies the application, issues a certificate with modified terms and conditions, or expressly extends the period of review. Note that the certificate is valid for no more than 1 school year and does not extend beyond the date of graduation.

READ CAREFULLY THE INSTRUCTIONS FOR COMPLETING THIS FORM. PRINT OR TYPE ALL ANSWERS.

1. NAME AND ADDRESS, INCLUDING ZIP CODE, OF ESTABLISHMENT MAKING APPLICATION:	3A. NAME AND ADDRESS OF STUDENT-LEARNER: B. DATE OF BIRTH: *(Month, day, year)*
2. TYPE OF BUSINESS AND PRODUCTS MANUFACTURED, SOLD, OR SERVICES RENDERED:	4. NAME AND ADDRESS, INCLUDING ZIP CODE, OF SCHOOL IN WHICH STUDENT-LEARNER IS ENROLLED:
5. PROPOSED BEGINNING DATE OF EMPLOYMENT *(Month, day, year)*	17. TITLE OF STUDENT-LEARNER OCCUPATION:
6. PROPOSED ENDING DATE OF EMPLOYMENT *(Month, day, year)*	18. NUMBER OF EMPLOYEES IN THIS ESTABLISHMENT
7. PROPOSED GRADUATION DATE *(Month, day, year)*	19. NUMBER OF EXPERIENCED EMPLOYEES IN STUDENT-LEARNER'S OCCUPATION
8. NUMBER OF WEEKS IN SCHOOL YEAR	20. MINIMUM HOURLY WAGE RATE OF EXPERIENCED WORKERS IN ITEM 19
9. TOTAL HOURS OF SCHOOL INSTRUCTION PER WEEK	21. SUBMINIMUM WAGE(S) TO BE PAID STUDENT-LEARNER *(If a progressive wage schedule is proposed, enter each rate and specify the period during which it will be paid):*
10. NUMBER OF SCHOOL HOURS DIRECTLY RELATED TO EMPLOYMENT TRAINING	
11. HOW IS EMPLOYMENT TRAINING SCHEDULED *(Weekly, alternate weeks, etc.)?*	
12. NUMBER OF WEEKS OF EMPLOYMENT TRAINING AT SUBMINIMUM WAGES	
13. NUMBER OF HOURS OF EMPLOYMENT TRAINING A WEEK	
14. ARE FEDERAL VOCATIONAL EDUCATION FUNDS BEING USED FOR THIS PROGRAM?	22. IS AN AGE OR EMPLOYMENT CERTIFICATE ON FILE IN THIS ESTABLISHMENT FOR THIS STUDENT-LEARNER? *(If not, see instructions).*
15. WAS THIS PROGRAM AUTHORIZED BY THE STATE BOARD OF VOCATIONAL EDUCATION?	
16. IF THE ANSWER TO ITEM 15 IS "NO", GIVE THE NAME OF THE RECOGNIZED EDUCATIONAL BODY WHICH APPROVED THIS PROGRAM:	23. IS IT ANTICIPATED THAT THE STUDENT-LEARNER WILL BE EMPLOYED IN THE PERFORMANCE OF A GOVERNMENT CONTRACT SUBJECT TO THE WALSH-HEALEY PUBLIC CONTRACTS ACT OR THE SERVICE CONTRACT ACT?

87 74

ATTACH SEPARATE PAGES IF NECESSARY

Form WH-205
Rev. Aug. 1974

24. OUTLINE THE SCHOOL INSTRUCTION *directly* RELATED TO THE EMPLOYMENT TRAINING *(list courses, etc.)*.

25. OUTLINE TRAINING ON-THE-JOB *(describe briefly the work process in which the student-learner will be trained and list the types of any machines used)*.

26. SIGNATURE OF STUDENT-LEARNER:

I have read the statements made above and ask that the requested certificate, authorizing my employment training at sub-minimum wages and under the conditions stated, be granted by the Administrator or his/her authorized representative.

(Print or type name of student) | *Signature of Student* | *Date*

27. CERTIFICATION BY SCHOOL OFFICIAL:

I certify that the student named herein will be receiving instruction in an accredited school and will be employed pursuant to a bona fide vocational training program, and that the application is properly executed in conformance with section 520.3(c) of the Student-Learner Regulations.

(Print or type name of official)

Signature of School Official | *Date*

Title

Tel. No. *(Include Area Code)*

28. CERTIFICATION BY EMPLOYER OR AUTHORIZED REPRESENTATIVE:

I certify, in applying for this certificate, that all of the foregoing statements are, to the best of my knowledge and belief, true and correct.

(Print or type name of employer or representative)

Signature of employer or representative | *Date*

Title

Tel. No. *(Include Area Code)*

ATTACH SEPARATE SHEETS IF NECESSARY

U.S. G.P.O. 1976-621-736/5952

SECTION V

VOCATIONAL COOPERATIVE EDUCATION
FOR
HANDICAPPED STUDENT-LEARNERS
WHO NEED COOPERATIVE TRAINING PROGRAMS
THAT CAN PAY LESS THAN 75% OF MINIMUM WAGE

HANDICAPPED WORKERS CERTIFICATE
WAGE AND HOUR REGULATIONS
PART 524
APPLICATION FORM (WH-222)
ISSUED CERTIFICATE (WH-223)

DEFINITIONS

Reference definitions in Section IV

VOCATIONAL COOPERATIVE WORK EXPERIENCE (SPECIALLY DESIGNED) FOR THE SEVERELY HANDICAPPED STUDENT-TRAINER (PAID)

PROGRAM MODEL	REQUIRED	RECOMMENDATIONS
1. This option is available for the student-learner who is multihandicapped or whose earning capacity is severely impaired. 2. Certificates are not issued for less than 75% of minimum wage unless a lower rate is clearly justified. Wages cannot go lower than 25% for this experience. 3. Application can be made by vocational rehabilitation counselor, work experience instructor (AEA) or special education teacher coordinator (LEA) depending on the designation of the local district administrator.	-The handicapped student-learner's capacity is impaired by age or physical or mental deficiency or injury, and who is receiving or is scheduled to receive on-the-job training in industry. Student will be listed on application as a "trainee." -Can be paid less than 75% but not less than 25%. -Instituted in order to prevent curtailment of opportunities for training and future employment. -Includes employment in agriculture -The work is incidental to training or evaluation. -Age 16 (unless the job comes under a hazardous occupation). -WH-222 must be filed by school coordinator or a vocational rehabilitation counselor. -Regional office issues a WH-223 Certificate after WH-222 is filed. -Certificate covers one school year. -Cannot continue past graduation from the school program. -Individualized Education Program (IEP) -Training Agreement and Plan -Related Instruction (General and Vocationally Specific)	-School credit towards the st dent requirements for gradua from secondary program. -Keep Wage and Hour informed garding the status of the tr ing. -Call the Regional Wage and H Office if you are in doubt a any facet of the school's offering.

Provision is made for a lower minimum wage, on approval of application to the Wage and Hour Division of the Department of Labor, for handicapped workers in competitive employment in special situations. The regulations pertaining to paying special minimum wages for handicapped workers are provided under Title 29, Part 524 of the Code of Federal Regulations. The following information summarizes the procedures for obtaining Handicapped Worker Certificates under the Fair Labor Standards Act for handicapped students enrolled in a work experience program.

Question: When is it appropriate for local school district and/or Area Education Agency personnel to apply for a Handicapped Worker Certificate?

Answer: 1. General Information and Instructions.

1.1 A simplified procedure may be used where numerous students participating in an on-the-job training program require handicapped worker certificates under the Fair Labor Standards Act (FLSA) in order to prevent curtailment of their opportunities for employment. (See item 2.2)

1.2 The rehabilitation counselor or coordinating official of the school may act as agent for the participating employers in completing applications (Forms WH-222) for handicapped worker certificates under work-training or work-experience programs for moderate or severely handicapped students.

1.3 To qualify for handicapped worker certification, the individual worker must be handicapped within the meaning of the FLSA and Regulations, 29 CFR Part 524, i.e., the handicap must be due to physical or mental deficiency or injury. Hard-core unemployed, culturally deprived,

disadvantaged, socially handicapped, school dropouts, etc., would not qualify unless they are handicapped within the definition set out in Regulations, 29 CFR Part 524.2.

1.4 Certificates under the provisions of the FLSA may not be issued for work which is in contravention of child labor standards. With few exceptions, children under 16 may not engage in covered employment. For certain hazardous occupations, the minimum age is 18. These provisions are explained in Child Labor Bulletin No. 101.

1.5 Employers participating in the program will be responsible for the payment of wages in accordance with the terms and conditions of the certificates issued by the Wage and Hour Division's Regional Office on the basis of the information in the application submitted by the rehabilitation counselor or coordinating official of the school on behalf of such employers. Also, the participating employers are responsible for the proper maintenance of records required by the Regulations.

1.6 Counselors or coordinating officials are responsible for insuring that the names of all students participating in the program are on record at the Regional Office of the Wage and Hour Division.

2. Application (Form WH-222)(Part 524) (Attachment E.)

2.1 The original completed Form WH-222 with all attachments shall be sent to the Regional Office, Wage and Hour Division, Federal Office Building, 911 Walnut Street, Rm. 2000, Kansas City, MO 64106. Such additional copies

as are needed should be distributed by the applicant, e.g., school file copies, employer copies, if needed, etc.

2.2 In completing the Form WH-222, the following information will be furnished:

Item 1. Name and address (including ZIP code) of school.

Item 2. Date application is completed and signed.

Item 3. Enter: "See attached list of employers," if for more than one employer. (For data to be shown on the list of employers, see 2.3 below.) If the application is for a single employer, enter the name and address (including ZIP code) of such employer.

Item 4. Leave blank if entry in Item 3 is "See attached list of employers." If the application relates to a single employer, enter appropriate data as requested on form.

Item 5 and 6. Enter: "See attached list of workers." (See 4.4 below for data which should appear on the list of workers.)

Item 7, 8 and 9. Leave blank.

Item 10. Enter the hourly rate proposed as a guarantee to the workers. This rate should be at least 50 percent of minimum wage ($3.35) or the commensurate wage depending on which is higher. This rate can be reduced to 25 percent of minimum wage or commensurate rate (whichever is higher) if the student-learner is so severely or multiply handicapped that 50 percent of minimum or commensurate wage would curtail their opportunity to become employed. However,

for rates below 50 percent the application must be certified by a state agency that the individual is that severely or multiple handicapped before Wage and Hour can act upon the application.

Item 11. Describe the types of jobs to be used in the training programs. Where there will be two or more employers, enter: "See attached list of employers." If the application is for a single employer, enter appropriate description of the program on the form.

Item 12. Enter: "See attached list of workers." To avoid any detrimental reaction which may occur by describing the workers' disabilities on this form or in connection with the list of workers furnished under Item 5 above, codes may be established to indicate handicaps. A letter, or other statement, explaining the established code must be submitted with the application.

Item 13, 14, and 15. Leave blank.

Item 16 and 17. The rehabilitation counselor or coordinating school official in charge of the employment-training program may act as the authorized representative of the employers who have agreed to provide job training stations for the workers. The signature of the counselor or coordinating official and the typed (or printed) name and title of that official should be entered in these spaces.

Item 18. Enter: "See attached list of workers."

Item 19. Leave blank.

2.3 List of Employers. Furnish the following data for each employer:

a. Name and address (including ZIP code.)

b. Type of business; products or services produced.

c. Occupation in which training is to be offered.

d. Indicate whether employer has or may be expected to have six or more trainees in the program employed at one time. (If there is only one employer, include this information under Item 11 of Form WH-222).

2.4 List of Handicapped Workers. Furnish the following data for each student:

a. Name and address (including ZIP code) of worker.

b. Date of birth.

c. Disability (or code). If a code is used, attach a letter or statement of explanation.

d. Expected date of graduation.

e. Worker's signature.

3. Issued Certificate (WH-223) (Attachment F.)

3.1 After filing, the Regional Office of the Wage and Hour Division will return a separate certificate to each participating employer. In Item 3, the entry shall read: "Eligible handicapped students of the (enter the name and address of the participating school)." During the life of the certificate, the employer may employ a handicapped student who is participating in the school program and whose name the counselor or other official has furnished to the Regional Office of Wage and Hour Division. (The employment of the students must meet the standards set out in the Child Labor Regulations, WH No. 101.)

3.2 The expiration date would generally be set to cover the school year, unless the counselor or coordinating official furnishes information that supervised programs are maintained through the summer vacation or other vacation periods.

3.3 In no case may a student be certificated in an employment-training program beyond his or her graduation date.

3.4 Certificates are renewable upon proper application.

3.5 The occupation shown on the certificate will be: "Trainee," and will be applicable to all students in the program whose names have been forwarded to the Regional Office of the Wage and Hour Division.

3.6 The certificate will show the minimum rate that can be paid, but this is a minimum rate only; the terms of the certificate require that each worker be paid wages on the basis of his or her individual productivity as compared with normal productivity of nonhandicapped workers in the area for essentially the same type of work or a percentage of the prevailing rate, whichever is higher.

4. Adding New Worker or New Employer During Life of Certificate(s).

4.1 New Worker. When a new worker or workers enter the program after the initial application has been filed, the counselor or coordinating official shall notify the Regional Office of the Wage and Hour Division by letter furnishing the information shown under 2.3 above. The information shall include whether or not the new employer expects to employ six or more workers at

any time. If approved, a certificate will be issued to the employer, authorizing employment of any of the students in the program whose names have been furnished to the Regional Office of the Wage and Hour Division either on the original application or by supplemental letter, and providing documentation that the standards in the Child Labor Regulations are being met.

5. Renewal of Certificate.

5.1 All certificates may be renewed, if warranted, upon proper application for such renewal. The only exception would be that students participating in school-work experience programs may not be continued under such certificates beyond their graduation date.

5.2 The same forms and procedures are used for renewal applications as are used for original applications.

Attachment E

(004-R-0355)

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION

APPLICATION FOR SPECIAL WORKER CERTIFICATE

FOR AGENCY USE ONLY		
AGE ☐ ORIGINAL ☐		
OTHER ☐ RENEWAL ☐		
DENIED ☐		
RATE	FROM	TO

INSTRUCTIONS: ALL ITEMS SHOULD BE COMPLETED.

a. This is an APPLICATION FORM ONLY (not a permit or certificate) used in applying for a subminimum wage certificate for a worker under the Fair Labor Standards Act (FLSA), Walsh-Healey Public Contracts Act, and Service Contract Act (SCA). If the worker will be employed on an SCA contract of more than $2,500, supply on a separate sheet of paper attached to this application: Name of prime contractor, contract number, dates of award and expiration, amount of the contract, applicable SCA wage determinations (including fringe benefits), type of service to be performed, and governmental agency name and location for which the service contract will be performed.

b. Four copies of this form are to be completed and then signed by both the employer and the worker. The employer should send the original and one copy of the completed form to the address shown above, give a copy to the worker, and keep one for his/her own files.

c. This report is authorized by Sec. 14(c) of the FLSA. Completion of the form is voluntary. However, failure to provide the information will result in the non-issuance of a certificate. The disability and medical information furnished will be kept confidential.

SEC. I. INFORMATION ABOUT EMPLOYER

1. Name of firm	2. Date of application
3. (a) Address including ZIP Code, of establishment where worker will be employed	3. (b) Area Code and Telephone Number

4. (a) Type of business _____
(Examples: retailing, wholesaling, manufacturing, processing, miscellaneous business services, etc.)

(b) Type of products or services _____
(Examples: men's and boys' clothing, seafood, hosiery, cigars, mail advertising, etc.)

SEC. II. INFORMATION ABOUT WORKER

5. Name of worker Mr. Mrs. Miss	6. Date of birth	7. How long employed by firm?	8. How long at present job?

9. Home address, including ZIP Code, of worker

10. Amount firm proposes to guarantee worker in:

(a) Cash ..... _____ per hour

(b) Reasonable cost of lodging board or other facilities, if furnished _____ per hour *(See Reg., 29 CFR Part 531)*

(c) How long has proposed rate been in effect for this worker? _____

11. Occupation in which worker is to be employed (Describe if job title is not self-explanarory)

12. Nature of worker's disability:

(a) Describe in FULL. (Do not use vague statements, such as "nervous," "slow," etc.)

(b) Obvious ☐ Not obvious ☐ (Check one.) (If disability is not obvious, Section V of this application, Report of Medical Examination, should be completed by a licensed physician. For a renewal application, complete Section V only when requested.)

(OVER — THE REVERSE SIDE OF THIS FORM MUST BE COMPLETED)

Form WH-222 (Rev. Jan. 1981)

SEC. III. INFORMATION ABOUT EARNINGS

NOTE: The information requested below must be properly completed to determine the certificate rate. Action cannot be taken on this application unless all the requested information is furnished.

13. (a) **REGULAR** employees in establishment during most recent week doing same type of work as described under item 11.

(1) NUMBER OF SUCH EMPLOYEES (If none, so state)	(2) STRAIGHT-TIME AVERAGE HOURLY EARNING (Excluding make-up)		(3) NUMBER PAID MAKE-UP TO EQUAL STATUTORY MINIMUM (If none, so state)	(4) AVERAGE MAKE-UP PER HOUR (Divide total make-up by total hours worked by employees paid make-up)
	Time work	Piece work		

(b) If the make-up paid reported in 13(a)(3) and 13(a)(4) above is the result of unusual circumstances explain.

14. Special worker's earnings for most recent 4 weeks he or she worked for the employer.

(a) WEEK ENDING (Date)	(b) HOURS WORKED (Total for week)	(c) STRAIGHT-TIME AVERAGE HOURLY EARNINGS (Excluding make-up)		(d) MAKE-UP PAY (Total for week added to equal authorized minimum. If, none, so state.)	(e) OVERTIME PAY (Total paid for week over and above straight-time earnings)	(f) WEEKLY EARNINGS (Total gross earnings for week.)
		Time work	Piece work			

15. If worker has been employed during the above 4 weeks in an occupation other than that described in Item 11, specify occupation.

SEC. IV. SIGNATURES OF EMPLOYER AND SPECIAL WORKER

16. I certify that to the best of my knowledge and belief, all statements are true and accurate.	Signature of employer or authorized official
	Print or type name and official title
17. I have read the statements in this application and ask that the requested certificates be granted.	Signature of special worker (*If worker cannot write, signature may be made by mark (X) and witnessed by another person.*)
18. Witness (*Required ONLY if worker's signature is made by mark (X).*)	Signature of witness.

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SEC. V. REPORT OF MEDICAL EXAMINATION

This report is requested in connection with an application for a certificate authorizing the employment of the individual named in this application at a subminimum wage under a federal minimum wage law(s). A certificate will be granted only if the disability is handicapping for the work to be performed. Only a licensed physician may complete this section.

THE U.S. GOVERNMENT DOES NOT PAY FOR THIS EXAMINATION.

19. How and to what extent does the disability affect the applicant's ability to perform the type of work listed in item 11?

20. What is the prognosis?

21. Name and address, including ZIP Code, of examining physician (Print or type).

22. Physician's Signature

23. Date

Comments (Use space if needed)

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Attachment F

U. S. DEPARTMENT OF LABOR
Employment Standards Administration
Wage and Hour Division

Control _____

EXAMPLE

CERTIFICATE AUTHORIZING SPECIAL MINIMUM WAGE RATE FOR HANDICAPPED WORKER OR TRAINEE

This certificate, issued pursuant to Regulations, (29 CFR Part 524), is applicable under the Fair Labor Standards Act, The Walsh-Healey Public Contracts Act, and on contracts of $2500 or less under the Service Contract Act. It does not apply to work performed on contracts in excess of $2500 under the Service Contract Act unless such authorization is specifically spelled out herein.

1. NAME AND ADDRESS OF EMPLOYER

THE ABC COMPANY
123 Main Street
DES MOINES, IOWA (Zip)

2. DURATION OF CERTIFICATE:
EFFECTIVE: 6/15/82
EXPIRES: 6/14/83

3. TO EMPLOY:	5A. AT BEGINNING WAGE OF NOT LESS THAN:
John Doe	$1.675 PER HOUR
4. IN THE OCCUPATION OF:	5B. WITH FOLLOWING PROGRESSION OF WAGES: WAGE FROM TO
Custodian	

6. NAME AND ADDRESS OF WORKER

Mr. John Doe
555 Maple Lane
Des Moines, Iowa (Zip)

EXAMPLE

7. **COMMENSURATE WAGE RATES:** The handicapped worker or trainee named herein shall be paid wages commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work, but not less than the hourly rate specified above.

8. **ESTABLISHMENT PIECE RATES:** If the worker or trainee named herein is employed in an occupation in which nonhandicapped employees in the establishment are paid at piece rates, he/she shall be paid at least the same piece rates. The named worker or trainee must be paid his/her full piece-rate earnings, but not less than the hourly rate specified above.

9. **OVERTIME:** The worker or trainee named herein must be paid at not less than time and one-half his/her regular hourly rate or basic hourly rate for all overtime hours, when required by the Acts.

10. **RECORD KEEPING:** Payroll and related records for the named worker or trainee are required to be kept for at least 3 years.

11. **HIGHER STANDARDS:** No provision of this certificate shall excuse noncompliance with any other Federal or State law or municipal ordinance establishing higher standards.

12. **REVIEW, ANNULMENT OR WITHDRAWAL:** This certificate is issued without prejudice to the rights of any party to petition for review as provided in 29 CFR Part 524.11. It is subject to withdrawal or annulment in accordance with 29 CFR Part 528.

M. J. VILLARREAL, JR.
Assistant Regional Administrator
for Wage-Hour/ESA

SIGNATURE OF AUTHORIZED REPRESENTATIVE — TITLE

SEE OTHER SIDE FOR INFORMATION FOR THE WORKER

Form WH-223 Rev. ** 73

INFORMATION FOR THE WORKER

This Certificate is issued on information in the application you signed jointly with your employer. It is good for the period shown and only for the occupation and employer listed.

The Certificate shows the lowest hourly wage you may be paid. You must be paid more, if you are on piece rates and you make more. If other workers in the plant doing the same work as you do are paid at piece rates, you must be paid the same piece rates.

For most workers, the law requires overtime payment of time and one-half the regular hourly rate for all hours over 40 worked in the workweek. On most Federal Government contract work, overtime also includes hours over 8 in a workday.

If you have any questions, you may write, telephone or visit the Employment Standards Administration Office at the address shown in the heading on the other side of this form.

SECTION VI

FULL-TIME STUDENTS
WORK-RELEASE
WORK-STUDY

WAGE AND HOUR REGULATIONS
PART 519
APPLICATION FORM (WH-200)

DEFINITIONS

Reference definitions in Section IV

FULL-TIME SPECIAL EDUCATION STUDENTS WORK RELEASE OR WORK STUDY

(PAID)

PROGRAM MODEL	REQUIRED	RECOMMENDATIONS
1. The student attends school full-time in accordance with the school's accepted definition of a full-time student. 2. The student is not enrolled in any school-sponsored vocational training program (school or community based). 3. The student needs to work for pay to stay in school full time. 4. The student can be paid 85% of minimum wage if the employer files an application (WH-200) with the Regional Wage and Hour Division and receives a certificate. 5. Retail, service, hospitals, and nursing homes or residential care facilities are eligible for this certificate. 6. This option is available for two years and then must be renewed. 7. Not included in IEP as it is not vocational training (specially designed or regular education).	-All Federal and State Laws and Regulations must be followed regarding Wage and Hour and Child Labor Title 29: Part 519: Code of Federal Regulations. -The student is not enrolled in any school-sponsored vocational training program (school or community based). -Student must be paid 85% of minimum wage with an approved certificate. -There are restrictions on the number of students who can be employed and the number of hours they can work. -Can be employed only outside school hours. -Requires no training agreement or plan. -Student must be age fourteen or older (must be older if a hazardous occupation). -Must be covered under workman's compensation and unemployment insurance. -The employer must file WH-200 to initiate this option for students and receive a certificate. -All students under full certification, cannot be employed for more than 20 hours a week for subminimum wage while full-time students. Child Labor Laws also apply for any student under age 18.	-School credit should not be given as students are not enrolled in a regular or "specially designed" vocational cooperative program.

Question: What is Wage and Hour's definition of a "full-time" student?

Answer: A student who is enrolled full time in the required courses and activities and is in full-time attendance.

Question: Under what conditions can a full-time student be employed?

Answer:

1. The full-time student can be employed under this option for more than one year if the employer renews his/her certificate and the status of the student is still full time.
2. The certificate cannot be issued retroactively.
3. The full-time student must be paid 85 percent of minimum wage.
4. There are restrictions on the number and the hours worked of full-time students an employer can employ under his/her certificate. The employer should call the Regional Office for specific information about the different types of certificates.
5. Fourteen is the minimum age for full-time students to be employed outside school hours (Child Labor Regulations).
   a. Fourteen and fifteen year old minors cannot be employed:
      .during school hours.
      .before 7:00 a.m. or after 7:00 p.m.
      .more than three hours a day on school days.
      .more than eighteen hours a week when school is in session.
      .more than eight hours a day on non-school days.
      .more than forty hours a week in non-school week.
6. Can be employed only outside their school hours, i.e., scheduled hours of instruction.
7. Other (Refer to Section 529.6 or Part 519).

Question: Are full-time students exempt from Workman's Compensation and Unemployment Insurance?

Answer: No

Question: Does a training agreement and plan have to be in place?

Answer: No. This is not considered a vocational training and/or work experience situation.

Question: Who files for less than minimum wages in this option?

Answer: The employer files Form WH-200 (Attachment G). These forms are available from the Regional Office in Kansas City. A certificate is issued which allows the employer to pay the student 85 percent of minimum wage.

OMB No. 1215-0017
Expires: 07-31-84

U.S. DEPARTMENT OF LABOR
Employment Standards Administration
Wage and Hour Division

APPLICATION FOR AUTHORITY TO EMPLOY FULL-TIME STUDENTS AT SUBMINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR AGRICULTURE

1. Name and address (including ZIP Code) of establishment at which full-time students will be employed:

2. Date establishment began operations:

3. Type of establishment:

4. Proposed subminimum wage: Not less than

$ _____ an hour.

5. Authority requested:
A. Not more than six (see definition of "employer") ☐
B. Ten percent of the total monthly hours ☐
C. Greater than ten percent of the total monthly hours ☐

6. Request for authority is:
☐ New (no previous authority)
☐ Renewal ☐ Change
If renewal, expiration date of previous authority: _____

7. If renewal and 5B or 5C is checked, provide:
Total hours of employment under certificate during the most recent 12 months of:
All employees _____ (hours)
Full-time students at subminimum wages _____ (hours)

8. A. Other name(s) or address(es) used in the past five years:

B. Corporate name (for parent company) and address:

C. Address to which correspondence should be mailed, other than Item 1:

9. Signature and title of authorized representative:

Date:

Telephone No. (Including Area Code):

ITEM 10 NEED ONLY BE COMPLETED ON INITIAL REQUEST FOR MORE THAN TEN PERCENT—SEE INSTRUCTIONS

10. A. Calendar Month (or beginning date of each fiscal month) and year:	B. Total hours of all employees	C. Hours of full-time students	D. Full-time student employment as percent of total employment	E. Percentage allowance requested	F. Data are from: Your establishment	F. Data are from: Other establishment(s)

G. If "Other establishment(s)" is checked in column F, enter the name and address of each such establishment:

DO NOT WRITE BELOW THIS LINE — FOR WAGE AND HOUR USE ONLY

Effective date: Expiration date:

AUTHORIZATION: TEN PERCENT (10%) OF THE TOTAL MONTHLY HOURS OF ALL EMPLOYEES UNLESS MORE INDICATED BELOW (monthly allowances indicated below may be varied to account for seasonal factors in agriculture).

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
CALENDAR MONTH													
FISCAL MONTH BEGINNING NEAREST TO:													

SUBMINIMUM WAGES FOR FULL-TIME STUDENTS UNDER THIS CERTIFICATE: Not less than $ _____ an hour.

($ _____ an hour, effective January 1, 19).

Wage-Hour Representative:

Copy 1, 80

Form WH-200
Rev. Dec. 1980

SECTION VII

SHELTERED WORKSHOPS
AND
WORK ACTIVITY CENTERS

DEFINITIONS

DEPARTMENT OF LABOR

(FEDERAL)

Sheltered Workshop means a charitable organization or institution conducted not for profit but for the purpose of carrying out a recognized program of rehabilitation for handicapped workers, and/or providing such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

Work Activity Centers or a physically separated department of a sheltered workshop should have an identifiable program, separate supervision, and records planned and designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make their productive capacity inconsequential. Therapeutic activities include custodial activities (such as activities where the focus is on teaching the basic skills of living), and any purposeful activity so long as work or production is not the main purpose. No sheltered workshop or separate department thereof shall qualify as a work activities center if the average productivity per handicapped worker is $850 or more per year as measured by dividing the total annual earned income of the work program, less the cost of purchased materials used, by the average number of clients in the work program, or, if wage payments are primarily at piece rates, the average annual labor rate per client is $600 or more as measured by dividing the total annual wages of the clients by the average number of clients in the work program. (The average number of clients shall be determined by taking the average of the total number of clients in the work program on the last day of each quarter in the previous fiscal year, provided such average is representative of the average number of clients employed during

the entire year.) No individual worker whose productivity substantially exceeds this average shall be employed at less than the statutory minimum wage under a work activities center certificate. (A handicapped worker, whose productivity substantially exceeds the average, may be certificated under Regulations, Part 524 of this chapter, in rare and unusual cases where necessary to avoid extreme hardship, if he/she is unable to earn the statutory minimum because of his/her handicap, and if his/her production and earnings are included in the averages provided in this paragraph.) Where information is not available for a year, a temporary certificate for not more than six months may be issued based on the limited information available, if it is represented that the center expects and has good reason to believe that the conditions hereinabove specified will be satisfied when one year's data are available. Information to be considered will include the severity of disability of the handicapped workers employed, or other pertinent factors.

Handicapped Worker (Client) means an individual whose earning capacity is impaired by age or physical or mental deficiency or injury, and who is being served in accordance with the recognized program of a sheltered workshop within the facilities of such agency or in or about his/her home.

Evaluation Program a program of not more than six months duration, except that longer periods may be approved in unusual circumstances, using the medium of work to determine a client's potential, and which meets State agency or equivalent standards.

Training Program a program of not more than 12 months duration, except that longer periods may be approved in unusual circumstances, designed to

(1) develop the patterns of behavior which will help a client adjust to a work environment, or (2) teach the skills and knowledge related to a specific occupational objective of a job family, and which meets State agency or equivalent standards.

DEFINITIONS

VOCATIONAL REHABILITATION EDUCATION AND SERVICES BRANCH

(STATE)

Activity Program (Activity Center) a program of purposeful and constructive activities for the severely handicapped individual who as yet is unable to engage in remunerative employment in either the competitive labor market or in sheltered employment or a work activity program. This program typically involves craft oriented activities, personal adjustment services, and recreation. Each person should be reevaluated periodically to determine if this program is meeting the client needs.

Sheltered Workshop (Work Activity Center Certificate) a program of work activity may involve employment and/or training. Remunerative work is one component of a Work Activity Center Program. This program can be a unit within a sheltered workshop, or it can be the entire program of an agency. Typically, a person assigned to a Work Activity Center Program will have a productivity capacity significantly below the sheltered workshop level.

Regular Program Certificate this program involves remunerative work for persons who cannot successfully obtain or maintain competitive employment. The sheltered workshop providing this service shall have a current Regular Program certificate and Individual Rate certificates as may be appropriate. A definite feature of this service is that individuals are usually involved in sheltered employment for a longer period of time than is normally considered for work evaluation or work adjustment programming. The actual length of time, however, can vary from a period of months to a period of many years. Each person shall be reevaluated periodically (at least once a year) to determine if current program is meeting client needs.

Work Evaluation Program a program of work evaluation involves using work in order to determine general employability characteristics about an individual. The program should be structured and, as a minimum, include the following factors:

1. Work habits
2. Work personality
3. Performance rate
4. Physical tolerance
5. Social development
6. Grooming and hygiene

A program limited to this definition should take no longer than four weeks. The existence of exceptions to this time frame is recognized by RESB but these exceptions should be very few in number--ten percent of the total number of individuals in this specific program. (Wage and Hour does not have this time restriction.)

Results: A written report describing the individual strengths and weaknesses stated in terms of general employability characteristics shall be available. This written report shall also include specific recommendations as to the next program step for the individual.

Employment and preparation for employment may involve factors in addition to those previously outlined. Programs which provide these additional services will use one or more of the following:

1. The work sample approach
2. Varied subcontract work
3. Actual job tryouts

Work samples, subcontract work, and actual job tryouts are related to job and/or job families. The above methods are used with due consideration of competitive employment norms. The use of various tests and test information is an integral part of determining the following factors:

1. Vocational skills or potential skills
2. Vocational aptitudes

3. Dexterities

4. Vocational interest

5. Intellectual functioning and achievement

Results: A written description of the individual vocational strengths and weaknesses stated (where appropriate) in terms of jobs or job families shall be available. The report will also include specific recommendations as to the next program step for the individual.

Work Adjustment Program a work adjustment program involves the provision of real work experiences and supportive services to assist the individual to become acceptable in a work environment through the development of appropriate patterns of behavior. The areas covered in a work adjustment program are:

1. Develop good work practices
   a. regular attendance
   b. punctuality
   c. safety habits
   d. accuracy
   e. work pace
2. Development of physical capacity and endurance
3. Facilitate motivation to:
   a. do productive work
   b. accept supervision
   c. relate properly to co-workers
   d. be self-reliant
4. Help the individual to develop and enhance feelings of self-worth
5. Provide ancillary skills which affect the individual's job
   a. orientation to a job market
   b. locating appropriate jobs

c. job applications and interviews

d. hygiene and appropriate dress

e. transportation

f. money management

On-The-Job Training a program of training to prepare an individual for employment using remunerative work in the training method. The primary emphasis of this program is training in specific kinds of work with some attention to work habits. Placement goals are individually determined and may involve competitive employment or sheltered workshop employment.

Occupational Skill Training (Work Training) a program of occupational skill training involves a planned and systematic sequence of instruction under competent supervision which is designed to impart predetermined skills and knowledge with respect to a specific occupational objective or job family.

CARF (The Commission on Accreditation of Rehabilitation Facilities) the Commission, through an evaluation process, evaluates and issues accreditation to rehabilitation facilities.

WORK EVALUATION, WORK ADJUSTMENT TRAINING ON-THE-JOB TRAINING AND WORK TRAINING FOR SEVERELY HANDICAPPED STUDENTS

PROGRAM MODEL	REQUIRED	RECOMMENDATIONS
1. An option which provides vocational and evaluation training at a work activity center or sheltered workshop through a contractual agreement with a local district for moderately or severely handicapped secondary students. 2. Movement from the work activity center or sheltered workshop program to community placement (as soon as possible). 3. Close coordination between the training site and school instructional program. 4. Training and evaluation can be paid for from the monies generated by the handicapped student at the local education agency the student is enrolled (see Attachment A in Section III).	-An individualized educational program (IEP). -Training Agreement and Plan. -Related instruction (general and vocationally specific). -Adherence to all Federal and State Wage and Hour Regulations and Child Labor Laws. -Continued assessment and evaluation of the student's initial status and on-going progress with recorded data. -A subminimum wage certificate under Regulations Part 525.	-School credit towards graduation from the local district high school program. -Close coordination with Vocational Rehabilitation Services. -Evaluation and training in the community setting should be considered before evaluation and training in a sheltered workshop setting. -Students evaluated and trained in sheltered workshop settings should be placed in the community after evaluation and training if at all possible.

SHELTERED WORKSHOPS

Question: What is the minimum age for employment in a sheltered workshop?

Answer: Sixteen years. No one under sixteen years of age, regardless of whether he/she is a student, a CETA client, etc., can be employed in a sheltered workshop.

SCHOOL (ON CAMPUS) TRAINING

Question: Can schools bring "a job" into a school setting on a regular basis?

Answer: Yes, but the following considerations must be made: (If the work that they are performing is not subject to minimum wage, then there is no concern.)

A. Students may need to be paid wages because they are working on jobs that are going to move in interstate commerce.

B. Clarification whether the school would need to apply for subminimum wage certificates.

C. What is the work being done; is it legal for persons under sixteen years of age? Manufacturing would not be OK for persons under sixteen.

Question: Would the school need to apply for a workshop/work activity certificate?

Answer: It is best to check with the Kansas City Regional Office of Wage and Hour Division. (See pages 5, 6, and 7.)

Question: Can sheltered workshops pay less than minimum wage?

Answer: Yes, but an application to pay less than minimum wage would

have to be made to the Department of Labor, Kansas Regional Office. A subminimum wage certificate must be obtained.

Question: Who makes this application?

Answer: The administrator of the facility.

Question: Does Social Services provide money to pay for services in accredited facilities?

Answer: Sheltered work and work activity services provided by the Department of Social Services Title 20 Block Grant must by accredited by July 1, 1983. Before contracting with a facility for vocational evaluation and training please call the Social Services contact person (p. 5) for the facitity's accrediation status.

WORK ACTIVITY CENTERS

Question: What is the minimum age for persons to participate in work activity centers?

Answer: Sixteen years of age because of the manufacturing aspects of licensed work activity centers.

Question: What categorical group of students could be considered eligible for a work activity center program?

Answer: Only seniors who are moderately or severely mentally disabled or multiply handicapped. This is due to the age sixteen restriction.

Question: At what rate are work activity center clients paid?

Answer: They must be paid according to each person's productivity as compared to a nonhandicapped worker who performs the same type, quality, and quantity of work.

SECTION VIII

AGE SPECIFIC INFORMATION

UNDER SIXTEEN YEARS OF AGE

Question: What occupations are permitted for fourteen and fifteen year old minors?

Answer: Employment of fourteen and fifteen year old minors is limited to certain occupations under conditions which do not interfere with their schooling, health, or well-being. (See Attachments H and I.)

Question: What are the hour regulations for children sixteen years old and under?

Answer: Students under sixteen years old cannot be employed during school hours unless they are enrolled in a vocational training program. This applies to agricultural and non-agricultural occupations.

Students who are not enrolled in school (drop outs) cannot be employed during the hours school is in session. Exceptions would be a parent owned business or "stand in parent" owned business.

In addition, federal law states students may not be employed more than three hours a day on school days; eighteen hours a week in a school week, eight hours a day on a non-school day, or forty hours a week in a non-school week. Also, not before 7:00 a.m. or after 7:00 p.m. during the school year. May work eight hours on non-school days.

Question: The Iowa law is less stringent, i.e., four hours per day, twenty-eight hours a week, etc.: Which law takes precedent?

Answer: The strictest law takes precedent.

Question: Do students ages fourteen or fifteen require a work permit?

Answer: No. Student-learners under eighteen years of age do not have to be issued a work permit in order to be employed if they are enrolled in a school's vocational program.

Question: What are the permitted occupations for fourteen and fifteen year old students?

Answer: Refer to Attachments H and I.

Question: What are the excluded occupations for fourteen and fifteen year old students?

Answer: Refer to Attachments H and I for a complete listing.

Question: Are there any exemptions to the hours and occupations if students (fourteen and fifteen years of age) are in an approved school program?

Answer: Yes. Two key statements, however. The program must be an approved school-supervised and school-administered Work Experience and Career Exploration Program.

If the program is approved as stated above, students in the program may be employed:

* during school hours.
* three hours on a school day.
* twenty-three hours in a school week.
* in occupations otherwise prohibited for which a variation has been granted by the Administration of the Wage and Hour Division.

Question: Who obtains approval for a Work Experience and Career Exploration Program?

Answer: The State Education Agency must obtain approval from the Administrator of Wage and Hour Division.

Question: Under child labor laws, are there any exceptions in placing students who are in occupational co-op programs in occupations that are considered hazardous - that are not for sixteen and seventeen year olds - and if so, how does one make exceptions for all of those or certain exceptions?

Answer: Under state law there are some exceptions if the student-learner is in a school-sponsored program. They are:

1. If he/she is in a school program and there is an instructor there.
2. If he/she is in an industrial arts program.
3. If he/she is in a course of instruction approved by the board of vocation education (Board of Education).

Federal law under child labor is similar but there are only seven hazardous occupations that can be exempted (reference Attachment J).

Question: Do sections 92.8 and 92.10 prohibit occupations and work permits/certificates of work apply to school training provisions?

Answer: Provisions of these sections (Section 92.8 lists the prohibited occupations and hazardous jobs, and 92.10 requires work permits and certificates of work) shall not apply to students working under an instructor in a manual training department in the public schools of the state or under an instructor in a school shop or industrial plant or in a course of vocational education approved by the Board of Education or to apprentices.

Question: Can employers pay less than minimum wage to student-learners?

Answer: Yes. An employer, if he/she cannot hire a co-op student at minimum wage, may file a subminimum wage application with the Kansas City Regional Office which, if approved, will enable a student to be employed at 75% of the minimum wage.

Question: Who usually makes an application for subminimum wage for student-learners and how is this done?

Answer: The coordinator of the education program usually submits this application (form WH-205). It is submitted to the Department of Labor, Wage-Hour Division of the Regional Office (Kansas City). The application requires signatures of the student, employer, and education coordinator.

SIXTEEN, SEVENTEEN, AND EIGHTEEN YEAR OLDS

Question: Can students, aged sixteen, seventeen, and eighteen, apprentice in jobs which are classified as hazardous occupations for this same age group?

Answer: Yes. However, four criteria need to exist. They are:

1. The apprentice is employed in a craft recognized as an apprenticeable trade.
2. The work of the apprentice in the occupations declared particularly hazardous is incidental to his/her training.
3. Such work is intermittent and for short periods of time and under the direct and close supervision of a journeyman as a necessary part of such an apprentice training.
4. The apprentice is registered by the Bureau of Apprenticeship and Training of the United States Department of Labor and employed with the standards established by the Department. (Section 9 of Chapter 92 of the Code.)

Question: Does the apprentice program have to be under the supervision of a school-approved, school-supervised program?

Answer: No, not in the apprenticeship program. Supervision must be provided in the training (#3 of previous question).

Question: How much time during the day can a co-op worker who is handicapped spend on a job if he/she is eighteen or nineteen?

Answer: There is no limitation as far as federal/state child labor law as long as he/she is paid properly.

Question: Do all vocational education students need to be paid a wage when they are placed with an employer trainer?

Answer: Senior students taking secretarial, business, and commercial courses who undergo brief periods of on-the-job training prior to graduation may be exempt from the monetary provisions of the Act. This time spent, usually a two to three week period, full or part time, in the employment setting would be considered by the school as part of its regular curriculum and both students and employers understand that the trainees are not entitled to a wage. However, all six criteria must be considered in determining whether an employment relationship exists under the Act.

HAZARDOUS OCCUPATIONS ORDERS
IN NONAGRICULTURAL OCCUPATIONS

(These Orders are published in Subpart E of Part 570 of Title 29 of the Code of Federal Regulations.)

HAZARDOUS OCCUPATIONS ORDERS

The Fair Labor Standards Act provides a minimum age of 18 years for any nonagricultural occupations which the Secretary of Labor "shall find and by order declare" to be particularly hazardous for 16 and 17-year-old persons, or detrimental to their health and well-being. This minimum age applies even when the minor is employed by the parent or person standing in place of the parent.

The 17 hazardous occupations orders now in effect apply either on an industry basis, specifying the occupations in the industry that are not covered, or on an occupational basis irrespective of the industry in which found. (Information on the following are available in Child Labor Requirements in Non Agricultural Occupations, Publication WH-1330-101.)

The Orders in Effect Deal With:

1. Manufacturing and storing explosives. (p. 11)
2. Motor-vehicle driving and outside helper. (p. 13)
3. Coal mining. (p. 14)
4. Logging and sawmilling. (p. 14)
5. Power-driven woodworking machines. (p. 16)
6. Exposure to radioactive substances. (p. 17)
7. Power-driven hoisting apparatus. (p. 19)
8. Power-driven metal-forming, punching, and shearing machines. (p. 21)
9. Mining, other than coal mining. (p. 23)

10. Slaughtering, or meat-packing processing or rendering. (p. 26)

11. Power-driven bakery machines. (p. 27)

12. Power-driven paper-products machines. (p. 28)

13. Manufacturing brick, tile, and kindred products. (p. 30)

14. Power-driven circular saws, band saws, and guillotine shears. (p. 30)

15. Wrecking, demolition, and ship-breaking operations. (p. 31)

16. Roofing operations. (p. 32)

17. Excavation operations. (p. 32)

HAZARDOUS OCCUPATIONS ORDERS IN AGRICULTURAL OCCUPATIONS

The Fair Labor Standards Act establishes minimum ages for covered employment in agriculture, unless a specific exemption applies. The Act covers employees whose work involves production of agricultural goods which will leave the state directly or indirectly and become a part of interstate commerce.

Minimum Age Standards for Agricultural Employment

1. Sixteen years for employment in any farm job at any time.
2. Fourteen/fifteen years for employment outside school hours in any farm job that has not been declared hazardous by the Secretary of Labor. No minors under 16 years of age may be employed at any time in hazardous occupations in agriculture, unless exempt.
3. Twelve/thirteen years for employment outside school hours in any nonhazardous farm job, with written parental consent, or on the same farm where their parents are employed.
4. Under twelve years for employment outside school hours in any non-hazardous farm job, with written parental consent only on farms where the employees are not subject to the minimum wage provisions of the Act.
5. Ten/eleven years; local resident children only: for employment outside school hours as hand harvesters of short season crops, for no more than eight weeks between June 1, and October 15, for employers who receive a waiver from the Secretary of Labor.
6. Any age for employment in any farm job at any time on a farm owned or operated by the minor's parents or persons standing in place of parents.

Hazardous Occupations in Agriculture

(No minor under 16 years of age may be employed at any time in these occupations, unless exempt*.)

The Secretary of Labor has found and declared that the following occupations in agriculture are particularly hazardous for minors under sixteen years of age:

1. Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.
2. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation): corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner; feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or power post-hole digger, power post driver, or nonwalking-type rotary tiller.
3. Operating or assisting to operate (including starting, stopping, adjusting, feeding or any other activity involving physical contact associated with the operation): trencher or earthmoving equipment; fork lift, potato combine; or power-drive circular, band, or chain saw.
4. Working on a farm in a yard, pen, or stall occupied by a: bull, boar, or stud horse maintained for breeding purposes; or sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

5. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.
6. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over twenty feet.
7. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
8. Working inside: a fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere; an upright silo within two weeks after silage has been added or when a top unloading device is in operating position; a manure pit; or a horizontal silo while operating a tractor for packing purposes.
9. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act as Toxicity Category I, identified by the word "Danger" and/or "Poison" with skull and crossbones; or Toxicity Category II, identified by the word "Warning" on the label.
10. Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cords.
11. Transporting, transferring, or applying anhydrous ammonia.

*Exemptions

1. Young workers employed on farms owned or operated by their parents.
2. Student-learners enrolled in a bona fide vocational agriculture program are exempt from Items (1) through (6) when certain requirements are met.

3. 4-H Federal Extension Service Training Program and Vocational Agriculture Training Program. Minors fourteen and fifteen years of age who hold certificates of completion of training under either program in tractor or machinery operation may work outside school hours on equipment in Items (1) and (2) for which they have been trained.

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FOURTEEN AND FIFTEEN YEAR OLDS

PERMITTED OCCUPATIONS FOR 14 AND 15-YEAR OLD MINORS IN RETAIL, FOOD SERVICE AND GASOLINE SERVICE ESTABLISHMENTS

Fourteen and fifteen-year-old minors may be employed in:

1. Office and Clerical Work (including operation of office machines).
2. Cashiering, selling, modeling, art work, work in advertising departments, window trimming and comparative shopping.
3. Price marking and tagging by hand or by machine, assembling orders, packing and shelving.
4. Bagging and carrying out customers' orders.
5. Errand and delivery work by foot, bicycle, and public transportation.
6. Cleanup work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but not including the use of power-driven mowers or cutters.
7. Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as, but not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders.
8. Work in connection with cars and trucks if confined to the following:
   * Dispensing gasoline and oil.
   * Courtesy service on premises of gasoline service station.
   * Car cleaning, washing and polishing.
   * Other occupations permitted by this section.

But not including work involving the use of pits, racks or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.

9. Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing and stocking goods when performed in areas physically separate from areas where meat is prepared for sale and outside freezers or meat coolers.

NOTE: Students under age sixteen cannot be employed during school hours unless they are involved in a vocational training program. This applies to students involved in agricultural and non-agricultural occupations.

Students who are sixteen years old or under who are not enrolled in school, or have dropped out of school, cannot be employed during the hours school is in session. (Exception would be a parent owned business or farm operation.)

FOURTEEN AND FIFTEEN YEAR OLDS

IN ANY OTHER PLACE OF EMPLOYMENT

Fourteen and fifteen-year-old minors may be employed in any occupation EXCEPT the excluded occupations listed below.

Fourteen and fifteen-year old minors may not be employed in:

1. Any manufacturing occupation.
2. Any mining occupation.
3. Processing occupations such as filleting of fish, dressing poultry, cracking nuts, or laundering as performed by commercial laundries and dry cleaning (except in a retail, food service, or gasoline service establishment in those specific occupations expressly permitted there in accordance with the foregoing list).
4. Occupations requiring the performance of any duties in workrooms or workplaces where goods are manufactured, mined, or otherwise processed (except to the extent expressly permitted in retail, food service, or gasoline service establishments in accordance with the foregoing list).
5. Public messenger service.
6. Operation or tending of hoisting apparatus or of any power-driven machinery (other than office machines and machines in retail, food service, and gasoline service establishments which are specified in the foregoing list as machines which such minors may operate in such establishments).
7. Any occupations found and declared to be hazardous.
8. Occupations in connection with:
   a. transportation of persons or property by rail, highway, air, on water, pipeline or other means.

b. Warehousing and storage.

c. Communications and public utilities.

d. Construction (including repair) except office or sales work in connection with a., b., c., and d. when not performed on transportation media or at the actual construction site.

9. Any of the following occupations in a retail, food service, or gasoline service establishment:

a. Work performed in or about boiler or engine rooms.

b. Work in connection with maintenance or repair of the establishment, machines or equipment.

c. Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds or their substitutes.

d. Cooking (except at soda fountains, lunch counter, snack bars, or cafeteria serving counters) and baking.

e. Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery-type mixers.

f. Work in freezers and meat coolers and all work in preparation of meats for sale (except wrapping, sealing, labeling, weighing, pricing and stocking when performed in other areas).

g. Loading and unloading goods to and from trucks, railroad cars or conveyors.

h. All occupations in warehouses except office and clerical work.

SIXTEEN AND SEVENTEEN YEAR OLDS

Exemptions:

The exemptions for apprentices and student-learners apply to this Order, see this page.

EXEMPTIONS FROM HAZARDOUS OCCUPATIONS ORDERS

Hazardous Occupations Orders Nos. 5, 8, 10, 12, 14, 16 and 17 contain exemptions for 16 and 17-year-old apprentices and student-learners provided they are employed under the following conditions:

I. Apprentices: (1) The apprentice is employed in a craft recognized as an apprenticeable trade; (2) the work of the apprentice in the occupations declared particularly hazardous is incidental to his training; (3) such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and (4) the apprentice is registered by the Bureau of Apprenticeship and Training of the U. S. Department of Labor as employed in accordance with the standards established by the Bureau, or is registered by a State agency as employed in accordance with the standards of the State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, or is employed under a written apprenticeship agreement and conditions which are found by the Secretary of Labor to conform substantially with such Federal or State standards.

II. Student-Learners: (1) The student-learner is enrolled in a course of study and training in a cooperative vocational

training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school; and (2) such student-learner is employed under a written agreement which provides; (i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to the training; (ii) That such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person; (iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training; and (iv) That a schedule of organized and progressive work processes to be performed on the job shall have been prepared. Each such written agreement shall contain the name of the student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder. A high school graduate may be employed in an occupation in which training has been completed as provided in this paragraph as a student-learner, even though the youth is not yet 18 years of age.

RESOURCES FOR THIS DOCUMENT

"Federal and State Employment Laws" (Module 11), Work Experience Modules, University of Northern Iowa

Federal Wage and Hour Publications

Iowa Child Labor Laws

Federal Child Labor Requirements in Agriculture and Non-Agriculture

Project A.M.E.S. Resource Guide

Federal and State Educational Rules and Regulations

State of Iowa
DEPARTMENT OF PUBLIC INSTRUCTION
Special Education Division
Grimes State Office Building
Des Moines, Iowa 50319

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